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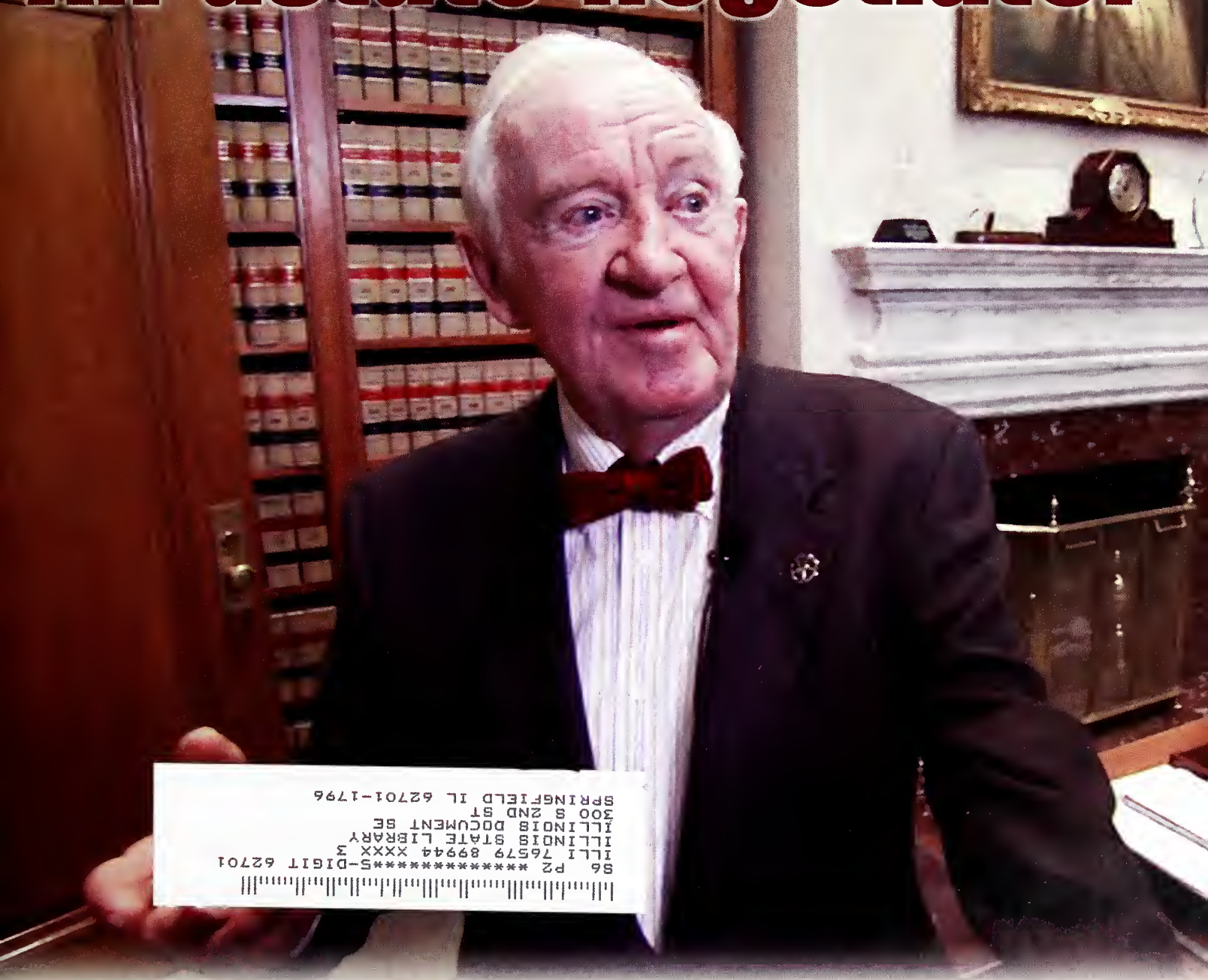
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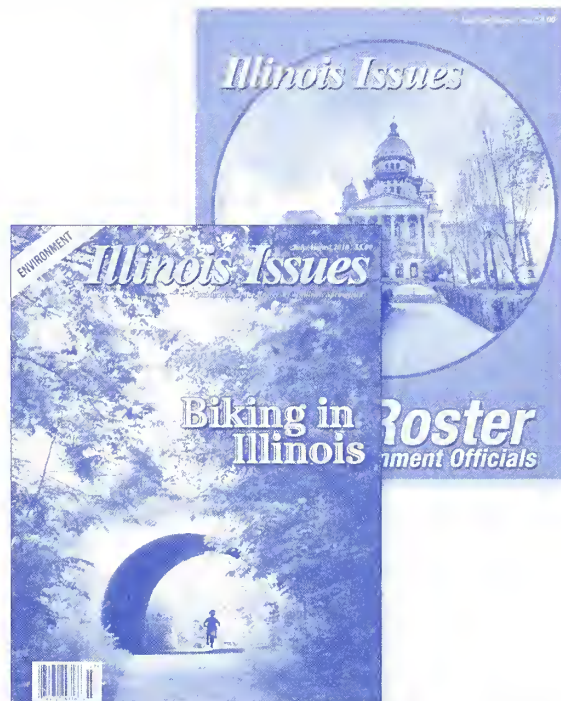
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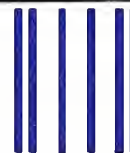
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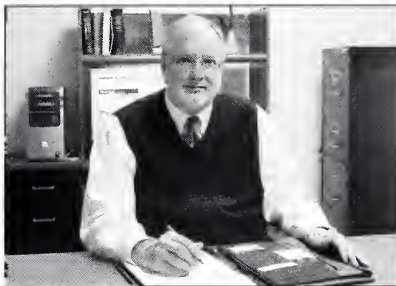
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Dana Heupel



## Freedom of information grapples with privacy in public employee job evaluations

by Dana Heupel

I have to confess that I'm conflicted. I've spent my career in journalism as an avid supporter — some might say rabid — of open government and freedom of information, but the proposed law regarding public employee performance reviews has me walking both sides of the fence.

In May, the General Assembly sent **House Bill 5154** to Gov. Pat Quinn for his signature. As written, the legislation would have changed the Illinois Freedom of Information Act to prohibit public disclosure of performance reviews for state employees. But in late July, Quinn used his amendatory veto power to change the bill so it would only ban disclosure of performance evaluations of local and state police personnel. If the legislature approves his changes, all other performance reviews of state employees will be open to the public.

In his veto message, Quinn restated his commitment to “groundbreaking legislation that I approved just last year, making our State’s open information laws among the most robust in the entire country.” He later added, “We cannot turn back now.”

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*I believe exemptions to the FOI law should be few and limited.*

Even though Quinn left only a small part of the original legislation intact, journalism groups still complained, with the Illinois Press Association stating that his action was “poor public policy on so many levels. The new FOIA law needs to be given time to work before being assaulted with attempts to make changes and exemptions. We urged the Governor to veto the entire bill and still believe that was the best action to take.”

I'm usually in lockstep with the state press association when it comes to open government. I believe exemptions to the FOI law should be few and limited. I have filed many FOI requests over the years and have written extensively about how the state needed stronger laws. In 1999, I coordinated a statewide

project for the Illinois Associated Press that found that only about a third of governmental units complied with the law when asked to reveal public information such as city council minutes, school superintendents' travel records, jail occupants and the like. I like to think that investigation helped in some way to bring about the changes, which took effect January 1.

I certainly believe public employees' salaries should be public — witness the recent revelations that the pay of a parks executive in Highland Park was boosted to more than \$450,000 to increase his pension, or that the city manager of a small Los Angeles suburb was paid nearly \$800,000 a year. The same goes for official travel expenses, office expenditures, decisions on promotions and most other personnel records involving public workers. But I balk when it comes to performance reviews.

Granted, we at *Illinois Issues* are in a peculiar position: We are journalists and we are public employees. It would be easy to dismiss my hesitation as simply, “Aha, your tune has changed now

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that you're on the other side." But my concerns don't stem from my position as an employee — perhaps surprisingly, my own performance reviews have been generally good. Instead, they relate to my more than 25 years as a supervisor who has conducted hundreds of performance reviews for staffs that ranged from five to 50 employees.

For most of that time, I worked for four of the largest newspaper companies in the country. I went through extensive in-house management training programs and attended numerous industry institutes for supervisors. The first rule in all my classes on improving employee performance was: Praise in public; criticize in private.

Even though I helped devise employee evaluation systems for several organizations, my opinion on the value of annual formal performance reviews has soured somewhat over the years. I've seen too many instances where they were misused: different supervisors applying different standards; companies targeting higher-paid employees to reduce costs; supervisors instructed to rate employees on a "curve," where a certain percentage received poor — or good — reviews, regardless of their actual performance. But that said, as a member of a management team, I still take performance reviews seriously.

At best, an annual performance review provides an uninterrupted block of time for an employee and supervisor to discuss successes and failures in the past year and set goals for the coming one. Although performance evaluation is an ongoing process — no one should be surprised during a formal review — the sit-down session can still be a designated time for complete honesty, for hammering out disagreements and reaching solutions, for team-building and all those other management buzzwords that masquerade as fancy terms for common sense. A performance evaluation can be a productive process — I've seen it work. It also can be documentation for discipline

or dismissal if a bad situation doesn't improve — I've seen that at work, as well.

But most of all, I believe it should be an essentially private communication between management and employee. If both the supervisor and the employee know that whatever's said could be published on a website for anyone to see — and used for any purpose — both will be so wary and guarded that the process will have no chance to work at all.

I do know that as a supervisor of public employees, I will be more restrained in what I commit to paper during future performance evaluations of my staff. I hope my supervisor will, as well.

As a lifelong journalist, I truly believe in open government and the free flow of public information. But as a manager, I also worry that publicly disclosing the contents of employee reviews could render what I already view as a questionable system for improving performance entirely useless.

\*\*\*

On a more positive note, it's again time for our annual expression of gratitude to those who have made financial donations to *Illinois Issues* during the past fiscal year. We hope you realize that our appreciation manifests itself every day — we never cease to be humbled by your generosity.

Your support is needed more now than ever. As state government allocates less to higher-education institutions such as the University of Illinois Springfield, *Illinois Issues* faces the increasing challenge of becoming more self-sustaining to survive. Your contributions help us immensely as we travel along that path — not only financially but in knowing that our work is appreciated.

To all of the contributors listed on the inside front cover, and to all of our readers and supporters who have helped us provide public affairs journalism for more than 35 years, we are immensely thankful.

*Dana Heupel can be reached at heupel.dana@uis.edu.*

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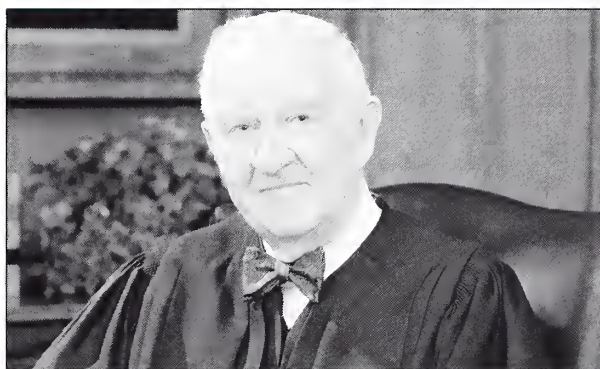
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Jamey Dunn



## Our representation should mirror our population in its diversity

by Jamey Dunn

The idea that a judicial candidate whose background is counter to the white male majority would bring a different perspective to the bench became a prevalent topic of discussion during the confirmation of U.S. Supreme Court Justice Sonia Sotomayor. But the concept that public servants with different backgrounds strengthen discourse is not new, or without merit. While the nation and the state of Illinois have made great strides in choosing female candidates for positions of power, the statistics are still dismal.

When the diversity of our political representation fails to mirror the diversity of our populace, we all miss out on the benefit of a variety of perspectives that only come from lives walked in different sets of shoes.

An infamous quote from Sotomayor's past became known in the media as her "wise Latina" statement: "I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life."

The context of the quote was largely lost in the din of news coverage surrounding her confirmation hearings. Sotomayor made the statement in 2001 as part of a lecture titled, "A Latina Judge's Voice," delivered at the University of California's Berkeley School of Law.

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*The context of [U.S. Supreme Court Justice Sonia Sotomayor's] quote was largely lost in the din of news coverage surrounding her confirmation hearings.*

Agree or disagree with the sentiment of that one line, her overall speech highlights the disparity in America's judiciary and makes a strong case for the benefit of having more women and minorities on the bench. If you have not read it, I would recommend taking the time. It was published by the Berkeley *La Raza Law Journal* and can be found at the *New York Times'* website.

Sotomayor said that although it is the duty of judges to strive for impartiality, having judges with varied backgrounds makes our justice system stronger and ultimately fairer. "I further accept that our experiences as women and people of color affect our decisions. The aspiration to impartiality is just that — it's an aspiration because it denies the fact that we are by our experiences making different choices than others. Not all women or people of color, in all or some circum-

stances or indeed in any particular case or circumstance but enough people of color in enough cases, will make a difference in the process of judging."

She acknowledges that people can and often do empathize with the needs and views of others who are different from themselves, but she cautions that our own backgrounds create the lenses through which we filter information.

"We should not be so myopic as to believe that others of different experiences or backgrounds are incapable of understanding the values and needs of people from a different group. ... However, to understand takes time and effort, something that not all people are willing to give. For others, their experiences limit their ability to understand the experiences of others. Others simply do not care. Hence, one must accept the proposition that a difference there will be by the presence of women and people of color on the bench. Personal experiences affect the facts that judges choose to see. My hope is that I will take the good from my experiences and extrapolate them further into areas with which I am unfamiliar."

A few years after giving that speech, Sotomayor became the first Latina Supreme Court justice, joining Justice Ruth Bader Ginsburg on the bench as the only two women. U.S. Supreme Court Justice Elena Kagan's recent confirmation brings the number of



female justices to three out of nine, still far from representational of the ratio of females to males in the greater population. However, the rate at which women are being appointed has greatly accelerated. More than a decade passed between President Ronald Reagan's appointment of Justice Sandra Day O'Connor and President Bill Clinton's appointment of Ginsburg, compared with less than a year between Sotomayor and Kagan.

In former Vermont Gov. Madeleine Kunin's book — *Pearls, Politics and Power*, published in 2008 by Chelsea Green Publishing Co. — she tackles the topic of why groups such as minorities, individuals with lower incomes and women are underrepresented in basically all areas of government. Kunin, the first and only female governor of her state, focuses on women:

"I wonder why we aren't reaching young women and getting them more involved in elective politics. What is wrong with the political system that participation does not seem worth the effort? And what is wrong with contemporary feminism?" Kunin writes.

She argues that women tend to advocate for issues that men may not push, such as child care, education and environmental policy, and that it is important to have their input when setting a political agenda.

"Many men advocate for so-called women's issues, but they have not experienced them personally. The difference is intensity, and in politics, intensity matters. Intensity not only changes the agenda; it changes what gets to the top of the agenda. Politics is competitive, not only about who gets elected but also about what gets done."

According to the Rutgers Center for American Women and Politics, Illinois ranks 16th out of the states for the percentage of women in the legislature, with 27 percent. Not bad in comparison with the rest of the country, but still not representative of our population. Illinois has never had a female governor. There are only four women in our 19-member congressional delegation, and only one woman currently holds a statewide elected office.

Across the country, there are 17 female U.S. senators out of 100 seats

and 73 U.S. representatives out of 435 seats. There are six female governors. Women of color constitute less than 5 percent of all state legislators. At press time, eight women have won primaries for U.S. Senate and 87 for the U.S. House, with one race going into a runoff election. Seven female gubernatorial candidates have won primaries, with one candidate in a runoff race.

Kunin makes the point that gender and race bias do not always come from a place of active sexism or racism. "Psychological science has overwhelmingly demonstrated that sexist behaviors, gender bias and discrimination can and do occur without these conscious beliefs or attempts to discriminate."

An old riddle illustrates that concept as it applies to gender bias: A father and son are in a car accident. The father dies, and the son is rushed to the hospital, where the surgeon says: "I cannot operate on this boy. He is my son." The person trying to solve the riddle is then asked, "How can this be?" I remember being asked that as a child and being stumped. The problem is that many people do not consider that the surgeon is the boy's mother because they typically think of a surgeon as a man. It isn't that they are being actively sexist or thinking a woman cannot be a surgeon. It is just that their mental picture of a surgeon is a man.

Kunin says that is often a view that women extend to themselves. She says women typically have to be asked to run for public office because they do not necessarily see themselves as potential officeholders without some external prompting.

Programs such as Ready to Run, which is conducted by the Center for Women and Politics, help give women the tools and perspective to make a bid for office. The bipartisan training program instructs potential female candidates on everything from fundraising to party politics and includes workshops specifically aimed at minority candidates. The group's website is: [http://www.cawp.rutgers.edu/education\\_training/ReadytoRun/index.php](http://www.cawp.rutgers.edu/education_training/ReadytoRun/index.php).

Kunin adds that the idea of not being able to visualize women in certain roles especially needs to be tackled in the executive branch. "We are beginning to

know what a congresswoman, female CEO, mayor and college president look like, or more importantly, act like. We don't yet know what a female commander in chief should look like, or more importantly, act like."

The way that will happen is when trailblazers start to challenge and then reshape our concepts of a powerful public servant.

Kunin looks to Shirley Chisholm, the first African-American woman elected to Congress, who also ran for president in 1972. Chisholm wrote in her memoir: "I knew I could not become President. But the time had come when persons other than males could run for the presidency of this country. Why couldn't a woman run? Why couldn't a black person run? I was angry that everything always, always, rebounded to the benefit of white males."

Former U.S. Sen. Carol Mosley Braun from Illinois, the first and only African-American woman to serve in the Senate, told Kunin that she ran for the presidency in 2004 to show girls such as her then-10-year-old niece that they could someday seek the highest office in the country. When asked whether she would have guessed then that in the next Democratic presidential primary, the top candidates would be a woman, Hillary Clinton, and an African-American, Barack Obama, Mosley Braun said she did see the potential for that historic race.

"Uh-huh, I would. I was out there, and I saw how people reacted and listened to what I had to say. The public is way ahead of the political class on a lot of this stuff."

That is the goal: that our statehouses, courtrooms and governor's mansions all match the diversity that we see in our everyday lives. Then it will become the norm, and multiple perspectives from many walks of life will flow through debate, just as they do outside those places in our everyday lives.

Kunin says change will require a positive outlook and perhaps a little bit of outrage.

"To arrive at equal representation, we must mobilize both our anger and our optimism: anger at what is wrong in America and optimism that it can be changed for the better." □

# BRIEFLY

## OIL SPILL

### Illinois' migrating birds are in danger

Photograph © BP p.l.c.

**M**ore than 200 species of birds that migrate through Illinois will cross the Gulf of Mexico or try to winter there this fall, according to the Audubon Society. But it is the water birds, marsh birds and shorebirds among them that face the real danger from the BP oil spill.

"In extreme cases, they get so much oil on them, they can't move and they can't waterproof their feathers, which affects their thermal regulation. When they're trying to preen themselves, they may ingest large amounts of oil, which is toxic," says Jeff Levensgood, a wildlife ecotoxicologist with the Illinois Natural History Survey. "An issue in the gulf is a lot of birds are fledgling right now, and so you have a lot of young birds that are getting oiled and looking for places to forage, trying to learn where to go, and then ending up in contaminated environments."

But even in less extreme cases, simply the degradation of the marsh and beach habitats may affect them as they arrive in the gulf, says Judy Pollock, director

Photograph by Bill Stripling, courtesy of the National Audubon Society



*A black-bellied plover*



*Specialists at the International Bird Rescue Research Center in Theodore, Ala. work to clean a bird soaked in oil by the BP spill.*

of bird conservation for the Audubon Society's Chicago region. Some began migrating toward the gulf as early as July; others will travel there into December.

Most of the 200 bird types that migrate across the gulf are land birds: scarlet tanagers, bobolinks, orioles, thrushes and others. Those birds forage primarily in trees and shrubs. But among them are more than 30 shorebirds and marsh birds, which Pollock says will look for food in marshes and on beaches. They "rely on the gulf's coastal marshes to eat and build up energy reserves for the difficult trip across the gulf."

Those birds include three shorebirds that nest in Illinois: the snipe, the spotted sandpiper and the killdeer. Other shorebirds that spend time in Illinois before going to the gulf include the least, sanderling and western sandpipers, and black-bellied, semipalmated

and piping plovers. Marsh birds in that category include grebes and the yellow and Virginia rails.

Just how long the oil spill will affect birds and other wildlife is an unknown, Levensgood says.

"In Prince William Sound, as a result of the Exxon Valdez oil spill, that was 20 years ago, and you can go there now and everything looks fine, and you can pick up a rock and there's oil underneath it," he says. "And this [the BP spill] was a much larger release of oil, so it can be decades — many decades, even longer — before the oil is completely gone, if that."

Levensgood says of the BP spill: "Of course, it's a monumental disaster and one that clearly could have been prevented. It ought to be a wake-up call for all of us that we really need a different way of doing things, [such as] better environmental protection."

*Maureen Foertsch McKinney*



# LEGISLATIVE CHECKLIST

While former Gov. Rod Blagojevich was on trial for alleged misdeeds he committed in office, Gov. Pat Quinn signed measures regarding corruption that will go into effect in January 2011. He also issued some controversial amendatory vetoes related to ethics and privacy.

## **Corruption**

**SB 2551** Public officials convicted of corruption will have to hand over to state law enforcement officials any money they gained through misdeeds. The measure is modeled on existing anti-drug laws.

**HB 5109** Public funds could not be used on a portrait of a governor who was impeached and removed from office. A portrait of Blagojevich could hang in the "hall of governors" in the Statehouse, but it could not be paid for with state dollars.

## **Phosphorous fertilizer**

**HB 6099** Commercial lawn care companies have to test soil before applying phosphorous fertilizers. The soil has to show a deficiency of the element before the fertilizer could be used. Phosphorous has been linked to a 6,300-square-mile dead zone in the Gulf of Mexico, where algae chokes out most other life.

## **Campus voting pilot**

**SB 3012** Under a new pilot program, grace period voting and early registration will be held on college campuses before the general election in November.

## **Sex offenses and technology**

**HB 4583** Minors caught electronically transmitting lewd photos of other minors via a cell phone message or the Internet, a practice sometimes referred to as "sex-

ting," will not be forced to register as sex offenders. However, they can be arrested and sentenced to counseling and community service.

**HB 5321** Predators targeting children in Internet chat rooms could now face legal consequences. Using Internet-based software to exploit a child or someone the offender believes to be child will be a crime when this legislation takes effect January 1, 2011.

## **Nursing home reform**

**SB 326** Patients entering nursing homes will be screened for mental illness. Nursing homes are required to obtain special certification to serve patients with serious mental illness. The bill sets required staff-to-patient ratios, which will force many facilities to hire more staff. Registration fees were also increased to cover the state's costs for more aggressive inspection requirements.

## **STAR bonds**

**SB 2093** Holland Construction Services will be able to use sales tax and revenue (STAR) bonds to fund up to half of the construction of a planned 400-acre shopping and entertainment complex near Marion. That will mean some of the sales tax dollars generated by the estimated \$378 million development would help to fund its creation instead of going to the public sector. Fifteen percent of any new property tax revenue from the complex would go to area schools. The measure is a pilot program that only applies to this development project.

## **Payday loan reform**

**HB 537** Payday lenders face stricter regulations. Interest rates for installment loans, often secured with a car title as collateral, will be capped at 99 percent for loans under \$4,000 and 36 percent for loans above that threshold. Payday

lenders will not be able to charge more than \$15.50 per \$100 loaned out every two weeks. Companies offering loans will have to determine customers' ability to repay the debts. They will also no longer be able to penalize customers for paying off loans early or require large lump-sum "balloon" payments.

## **Amendatory vetoes**

**HB 4842** Voters would be able to vote in a primary without declaring a political party, under a provision Quinn added to this measure with his amendatory veto power. The original bill requires the Illinois State Board of Elections to post a voters' guide of information on primary candidates on its website. Legislators would have to approve Quinn's changes.

**HB 5206** Voters would be able to bring ideas about campaign finance reform and ethics to the General Assembly. This measure allows election officials to electronically remove the names of deceased voters from voting registration rolls. However, Quinn used his veto pen to tack on a method for citizens' initiatives. If legislators approve the governor's changes, ideas that can garner 100,000 voters' signatures would be drafted into bill form, and the legislature would be required to vote on them. If a measure did not survive the legislative process, it would be included on the ballot as an advisory referendum, which does not have binding legal power.

**HB 5154** Law enforcement employees would have their performance evaluations sealed from the public if the legislature approves changes Quinn made to this measure. The original bill would have sealed all employees' evaluations. Quinn used his veto power to limit the protection to law enforcement, saying the bill rolled back too many of the Freedom of Information Act reforms passed last year.

Jamey Dunn

For updated news see the *Illinois Issues* website at <http://illinoisissues.uis.edu>

## Quinn calls budget a work in progress

Gov. Pat Quinn announced more than \$1 billion in cuts to the state budget in July, and he said more changes would come throughout the fiscal year.

"This budget year, we are going to have constant review. It's not a one-day document. It's going to be day-to-day, week-to-week, month-to-month throughout this fiscal year. There will be administrative orders regularly in order to manage our state through a very difficult time," Quinn said at a Chicago news conference.

Quinn says his almost \$25 billion budget plan cuts \$1.4 billion from last year's total. The biggest reductions would come from education and human services.

For K-12 education, the plan would maintain foundation funding level at \$6,119 per public school student, but mandated grants — which go toward programs such as art, foreign language, transportation and school breakfasts — would be slashed by more than \$311 million. Quinn vetoed all \$15,670,600 originally allocated in the budget for hold-harmless funding, which was created to help schools adjust to a change in the funding formula.

David Comerford, a spokesman for the Illinois Federation of Teachers, says people should not mistake categorical grants, which make up most of the more than \$1 billion the state already owes to schools, as unimportant or expendable. "It's still a key funding source that helps pay salaries. ... Categoricals can't be looked at as extra-curriculars. ... That's day-to-day education stuff. It's not frivolous side programs." He adds that the majority of those in the education sector who were laid off last spring will likely not be asked to return in the fall.

Meanwhile, human services face more than \$576 million in cuts, the bulk of which would come from non-Medicaid programs for mental health and those with developmental disabilities.

Social service providers signed contracts with "estimated" reimbursement rates, so they have no solid numbers on what they will get paid. Don Moss, coordinator for the Illinois Human Services Coalition, says contracts had to be signed by July 1 and submitted for payment authorization, "so people had no choice but to sign blank lines or numbers that

may be taken away or modified."

Quinn faces the task of building a budget without a proposed \$4 billion in borrowing to make the state's required employee pension payments for the year. The Senate does not plan to vote on that matter until November.

Meanwhile, President Barack Obama signed a spending package that includes more money for education and Medicaid. Illinois will get an estimated \$400 million for education and \$550 million for Medicaid. Quinn had estimated in his original budget proposal that Illinois would get \$750 million in Medicaid funds.

A report from Comptroller Dan Hynes said services and programs for this year would suffer as Illinois tries to pay down a projected \$6 billion in late bills from last fiscal year. "It will be extremely challenging to close out fiscal year 2010 and maintain key functions of state government. ... An extremely limited amount of fiscal year 2011's obligations are likely to be addressed in calendar year 2010, while the state is still dealing with the prior fiscal year's bills."

*Jamey Dunn*

## HOME LOANS Study to track buyers' eye movements

Two Chicago professors are expected in September to begin a three-year study to determine how homebuyers analyze the terms of a home loan before they sign on.

"We will bring participants to my laboratory at DePaul University, manipulate what they are told about the home loan and then have them look over disclosure forms while we utilize eye tracking technology to monitor their eye movements," psychology professor Jessica Chopin says about the plans for five different experiments. "We will be testing how well-established, cognitive phenomena affect the information that consumers are able to glean from disclosure forms. For example, we will test how confirmation biases affect how much of the disclosure forms people read."

According to Chopin and her research partner, Debra Stark, a professor at the John Marshall Law School, "confirmation" biases, for instance, might cause consumers to skim information that affirms what they already know about a loan. Con-



sumers can also be misled if they assume a person speaking about the loan will always give them the most important information. Meanwhile, even sophisticated consumers might retain some parts of the form and not others.

"Under confirmation biases, people look for information that confirms, rather than disconfirms, their prior beliefs or what other people have told them. So the idea is that if we tell them something about the loan — 'the interest rate is 5 percent' — then they will look for information on the form that confirms what we told them ... and fail to look for information that would disconfirm, [such as] the interest rate adjusts upward after the first two years or it is a floating rate loan," Chopin says.

Stark says researchers expect the experiments will prove "our hypothesis that mortgage lenders and mortgage brokers can lead consumers through home loan disclosures in a manner that impedes consumers from using the disclosure forms to select the best loan possible for the consumer."

"We also hope to determine if certain strategies can be employed to better empower consumers to make wise home-loan decisions, such as being guided through the disclosure forms by a mortgage counselor who can point out problematic terms and assist the consumer in obtaining a more favorable loan," she says.

Stark says that after the study, she and her partner plan to push for federal legislation to incorporate strategies such as mandatory mortgage loan counseling. "We also plan to share our findings with existing nonprofit counseling agencies and work with them in future work to expand on determining the best strategies to counsel borrowers," Stark says.

The pair received a \$250,000 National Science Foundation grant to conduct the research.

*Maureen Foertsch McKinney*



## **GUN BAN RULING**

### **Chicago faces a fight**

Chicago's new handgun regulations have been called some of the strictest in the nation. Now, the city is in a legal fight that could set important precedents regarding the scope of the Second Amendment and the power that cities, municipalities and states have to limit gun ownership.

The U.S. Supreme Court ruled against Chicago's 1982 gun ban in June. That decision came two years after the court struck down a similar ban in Washington, D.C., but its ruling then didn't apply to areas not under the jurisdiction of the federal government. The Chicago ruling determined that states and municipalities could not take away residents' Second Amendment rights, but it did not bar the city from regulating gun ownership.

"The big deal about this case is that it applies to every municipality and every state government in the U.S.," says Richard Pearson, executive director of the Illinois State Rifle Association, which was a plaintiff in the case.

After the ruling, Chicago responded quickly with new restrictions. Those wanting to own a handgun in the city must obtain a city permit, register the weapon with the Chicago Police and undergo classroom and firing range training. The ordinance also prohibits gun shops and firing ranges, with the exception of those used for police training.

Functioning guns are only allowed inside the home, and each household is limited to one gun for each eligible owner. According to Mara Georges, the city of Chicago's corporation counsel, guns are not allowed on porches, in yards or garages.

The penalty for a first violation of the ordinance is a fine of up to \$5,000 and up to 90 days in jail.

"Consistent with the U.S. Supreme Court's ruling, we are allowing the possession of handguns in limited circumstances. That is, in the home for self-defense purposes," Georges said at a Chicago news conference.

The Illinois Association of Firearm Retailers is suing the city to be able to open gun shops and firing ranges in Chicago. The lawsuit contends that both restrictions place an undue burden on potential gun owners and would make it nearly impossible for residents who don't have the means to travel outside of the city to complete the required training for a permit.

The four other plaintiffs, all Chicago residents, want to keep more than one operational gun for self-defense. Under the ordinance, residents 18 to 20 years old need approval from a parent who is also eligible for an Illinois Firearm Owner's Identification Card. The lawsuit also claims that a provision targeting a specific age group with more requirements is unfair.

Meanwhile, proponents and critics of gun control in the city both point to a spike in violence in Chicago to support their points. More than 50 people were shot and 10 of them died during one June weekend, and almost 30 were shot and three of them died the next weekend. Those who favor the strict regulations say more guns will equal more gun crimes. Opponents say the violence shows the ban was not working and say that law-abiding citizens should be allowed handguns to protect themselves.

*Janey Dunn*

## **Asian carp woes grow**

After an Asian carp was found closer to Lake Michigan than ever before, Gov. Pat Quinn unveiled a plan to combat the invasive species in Illinois waterways. However, it was not enough to prevent another lawsuit calling for stronger measures.

A commercial fisherman, contracted by the Illinois Department of Natural Resources to search for carp, caught an almost-20-pound male specimen in Lake Calumet — about six miles from Lake Michigan. That was the first carp found beyond an electric barrier meant to keep the species out of the Great Lakes.

Quinn later announced a public-private partnership aimed at removing carp from Illinois waters. Under that plan, Illinois will award a \$2 million grant through the state Department of Commerce and Economic Opportunity to the Big River Fish Corp., a processing company in Pearl. The company will use the money to update that plant and expand with new facilities in Pittsfield. It is expected to harvest 30 million pounds of Asian carp for sale in international markets.

"They're 100 pounds, 5 feet long, and they jump out of the [water] when they hear a motorboat. We'd better find a way, an American way, to take this challenge and convert it into an economic opportunity," Quinn said at a news conference.

But Michigan officials do not believe the plan does enough to prevent carp from migrating into the Great Lakes.

Michigan Attorney General Mike Cox filed a lawsuit calling for a temporary closure of the Chicago navigational locks and acceleration of a U.S. Army Corps of Engineers study on permanently separating the Mississippi River from the Great Lakes Basin. The U.S. Supreme Court previously denied a request from Michigan to close the locks.

"President [Barack] Obama and the Army Corps of Engineers have failed to fight Asian carp aggressively," Cox said in a written statement. "Asian carp will kill jobs and ruin our way of life. We cannot afford more bureaucratic delays — emergency action must be taken to protect the Great Lakes."

Scientists at Southern Illinois University Carbondale who tested the Lake Calumet carp say it has lived in that area for most of its life and likely did not swim past the barrier. They say humans, who may not have known the species of the fish, probably put it in the lake.

The corps has no plans to close the locks or separate the waterways because of the discovery of the Lake Calumet fish.

"At this time, we see no reason, relative to the threat that has been identified, to take any step toward permanent lock closure," says Mike White, director of programs for the Great Lakes and Ohio River division of the U.S. Army Corps of Engineers.

Asian carp can damage the ecosystems they invade by competing with native species for resources, and proponents of closing the locks say the fish could wreak havoc on sport and commercial fishing. Opponents of the separation say it would seriously impair shipping, which would harm multiple industries.

*Janey Dunn*

## BRIEFLY

### High-speed rail work announced

Work to the tune of \$98 million is expected to begin in this month on the first leg of a high-speed rail line between Chicago and St. Louis.

Gov. Pat Quinn announced in July that an agreement between the Illinois Department of Transportation and Union Pacific Railroad would allow construction on a 90-mile segment to begin in September. The renovations to tracks and equipment will begin just north of Alton to a point south of Springfield and then pick up again north of the capital city. Springfield has been engrossed in a debate over which path should be used through the city. "We're in the process of doing an environmental impact study on which corridor will be best," says city spokesman Ernie Slottag. "Illinois DOT has agreed not to do work in Springfield until the environmental impact study is finished." Slottag says he expects the study to be completed in about a year.

That first segment of work should be finished in December 2010, IDOT spokesman Josh Kauffman says. The total Chicago-St. Louis project is expected to be completed in 2014.

When finished, the Chicago-St. Louis

line would allow trains to travel up to 110 miles per hour. "Travelers will be able to move from Chicago to St. Louis in under four hours, making Illinois the high-speed rail hub of the Midwest," Quinn said in a news release.

In early 2009, President Barack Obama included \$8 billion in the federal stimulus package for grants to states developing high-speed rail corridors (see *Illinois Issues*, November 2009). In January, Obama announced that Illinois would receive \$1.2 billion to develop high-speed passenger rail. Of that amount, \$1.1 billion is designated to the Chicago-St. Louis route.

Improvements needed, according to Quinn's office, include new locomotives and rail cars, reconstruction of track, additional signals at crossings and state-of-the-art signaling technology.

"Beginning construction on a high-speed rail line in Illinois this fall brings with it not only the promise of quicker travel between great cities like St. Louis and Chicago, but also hundreds of construction jobs in our state," U.S. Sen. Dick Durbin said in a release. "More than that, in every community along the corridor, there will soon be a chance for greater economic development. If there was ever a moment in our history that we needed to

create good-paying jobs and spur economic development, it's this moment."

The *State Journal-Register* of Springfield reported that there is no guarantee that any jobs will be created for Illinoisans, but Kauffman defended the state's estimate. "The recently announced 90-mile high speed rail segment will support an estimated 900 jobs, comprised of new and existing construction jobs, and will provide additional job benefits for communities along the route," he says. "This job figure, which is based upon economic models of the rail industry relative to dollars spent, was completed in consultation with the [Union Pacific Railroad] and other large rail carriers operating in Illinois. The support of 900 jobs provides a small glimpse of the significant economic benefits that the entire high-speed rail project will provide along the route from Chicago to St. Louis."

Kauffman says, "As is the case with any federally funded transportation project — be it highway, aviation, rail, etc. — no state retains absolute control over hiring because federal authorities consider local or state hiring preferences a restraint on interstate commerce, and therefore [it is] unconstitutional."

Maureen Foertsch McKinney



Kevin Veara of Springfield is one of four artists whose works are on display through September 24 at the Illinois State Museum Chicago Gallery at the James R. Thompson Center, 100 West Randolph Street. Veara's *Miasma 9: Yellow Billed Cuckoo*, is pictured above. Other artists whose works are on display are Jacqueline Moses and Judith Raphael of Chicago and Mel Watkin of Cobden.



### QUOTABLE

“Ultimately, it’s in God’s hands.”

Former Gov. Rod Blagojevich on July 28 to the Chicago Tribune as he was leaving the Dirksen U.S. Courthouse. The jury in his trial on 24 counts — including racketeering conspiracy, making false statements, bribery, wire fraud and attempted extortion — had just begun deliberations.



## Writing test bumped

Illinois students will not take the state's writing assessment for elementary and middle schoolers, a move that one expert said will weaken the teaching of that skill.

The Illinois State Board of Education voted in June to suspend the writing test for the upcoming school year as a cost-cutting measure. The move to skip the test for students in grades 3, 6 and 8 will save \$3.5 million, says board spokesman Matthew Vanover. "There were a number of severe reductions." At press time, the board had proposed to cut more than \$200 million from its fiscal year 2011 budget.

The writing test, which has been part of the Illinois Standards Achievement Test, is not covered by the No Child Left Behind legislation, and the state doesn't get federal money to test that area.

The decision was entirely budget driven, Vanover says. "I understand there are a number of people who would like it to continue." A test for 11th graders will still be administered to give students a graded writing sample to provide universities, he says.

"So here's the problem," says Claire Lamonica, associate director of the Center for Teaching, Learning & Technology at Illinois State University and former co-director of the Illinois State [University] Writing Project. "In the current climate — and in any climate, actually — assessment is always going to drive curriculum."

When the test was dropped in 2005 (it was reinstated in 2007), there was strong anecdotal evidence that writing instruction suffered, she says.

"When the test stopped, teachers stopped teaching writing," Lamonica says. "A bad test can drive bad instruction. A good test can drive good instruction. No test at all leads to no writing instruction at all." Teachers are forced to prioritize, and they have a responsibility to prepare students for the standardized tests, she says.

Writing is an important skill for students, Lamonica believes. "Writing is a developmental process. Students need to be writing as much as possible, and they need supportive teachers and parents. They need real reasons to write," she says.



Despite the lack of a mandated state test, "teachers are always going to teach writing to a certain degree," while teaching other subjects, she acknowledges. "It's a matter of prioritizing. ... A really good teacher can integrate literacy into their curriculum. It's just a matter of whether a school encourages it."

The students who will suffer will not be those who have an interest in writing and do it outside of school, Lamonica says. The lack of the test will affect those students who need to be led to write.

*Maureen Foertsch McKinney*

## RACE TO THE TOP Illinois jumps over another hurdle

Illinois crossed a milestone on the path to a potential \$400 million in education funding after making it to the second round in phase two of the "Race to the Top" federal grant program.

Illinois joins Arizona, California, Colorado, the District of Columbia, Florida, Georgia, Hawaii, Kentucky, Louisiana, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island and South Carolina in the running for more than \$3 billion in grants.

The competitive aspect of the program is intended to spur education reform across the country. When U.S. Secretary of Education Arne Duncan announced the finalists in Washington, D.C., he characterized the changes some states are making, in part to have a better shot at Race to the Top funds, as a "quiet revolution."

Illinois recently passed legislation to increase the number of charter schools allowed in the state, revamp teacher assessments and training for administrators and make it easier to receive teaching certification through alternative programs, such as Teach for America.

"We're beginning to move past the stale debates about either more money or more reform because the fact is, we need both," President Barack Obama said of the program at a Washington, D.C. news conference.

As they did in phase one of the competition, state education officials traveled to Washington, D.C., to defend their second application before a peer review panel. Delaware and Tennessee won grants in that first wave, but Illinois, which ranked fifth out

of 41 applicants, did not win any money. The panel made recommendations on how Illinois could improve its first application. It highlighted school and stakeholder participation and the state's ability to implement the application's proposals as areas that needed improvement.

Darren Reisberg, general counsel for the State Board of Education, says great strides have been made in both areas since the first application. Forty percent of school districts participated in phase one, but this time, it was about 60 percent. One hundred fifteen local teachers unions signed off on the first application, as compared with 245 on the second.

Reisberg says that trying to craft a reform plan the first time around while simultaneously attempting to recruit people to support it presented challenges. "It was a mammoth task to be able to handle both of those components. ... Now that we had a lot of the substance nailed down ... we really could focus on communication, so school districts and unions could feel more comfortable as to what it is they are signing on to."

The board has since reached out to regional offices of education to help pass the message along to the districts they serve. The board plans to call on the regional offices in the future to help implement the plan, as well. Officials from the board also traveled the state making their case in what Reisberg, called "a sort of road show of the application."

After federal education officials dole out the grants, school districts have 90 days to submit plans that would get them in step with their states' Race to the Top applications.

*Jamey Dunn*

## BRIEFLY

### Institute encourages abuse prevention

High school senior Lanesha Baldwin wants to be a doctor but wasn't always sure she could do it. She says her experiences at the Girl/Friends Summer Institute gave her the confidence to pursue her dream.

"This program actually inspired me to keep going through to be a doctor," she says. "At first, I was shaky on being a doctor, but now I know I can do it."

The institute is conducted by the non-profit organization A Long Walk Home, a national group that uses the arts to educate about violence and combat it. The organization's website characterizes Girl/Friends Institute as a "three week sexual assault prevention and multimedia arts program."

Teenage girls are at a high risk for sexual assault, yet they are the least likely age group to seek medical attention, counseling or press charges against their attackers. That is why The Girl/Friends Summer Institute is working to make teenagers who have been exposed to violence into advocates for themselves and their peers.

A Long Walk Home is the brainchild of sisters Scheherazade and Salamishah

Tillet. Scheherazade, who is a sex education teacher at Chicago's North Lawndale College Prep Charter High School, as well as an art therapist and rape crisis counselor, says high school students are an underserved population when it comes to education about sexual violence and counseling. "These traditional methods that are meant more for adults and younger children are not working for teens."

All the participants in the program — there were 15 this summer — have been exposed to violence in some way, as victims or witnesses. They all have an interest in the arts and a desire to be advocates in their community.

At the institute, they study a wide variety of subjects, such as sexual health, legal and medical help for rape victims, dating violence, body image, yoga, dance and using art for self-expression and recovery.

The girls learn how to create multimedia messages to educate their peers. When they return to school, they organize events to pass on what they have learned.

"The impact that they created at their school was really profound," Scheherazade says. She adds that seeing that impact can be empowering for the girls. "We try to do as much youth-led stuff as we can to show them that they can do things."

Salamishah, who teaches English and African studies at the University of Pennsylvania, knows this firsthand. Advocacy has been part of her recovery as a rape survivor. She and her sister created a multimedia presentation about her recovery called *Story of a Rape Survivor*, which is targeted at college-age and adult women. "Part of my healing has been my activism, and it's an unexpected outgrowth of it. So initially, it was quite challenging."

Baldwin, who participated in the first year of the program last summer and has returned as a volunteer this summer, says the program gave her the security to discover her identity. "I felt like I was in a family, like someone really cared about me. It's like a home away from home. ... You learn about yourself and who you really are."

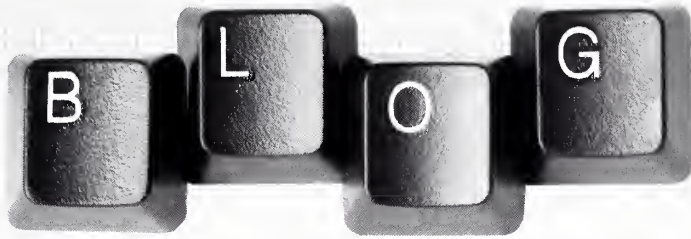
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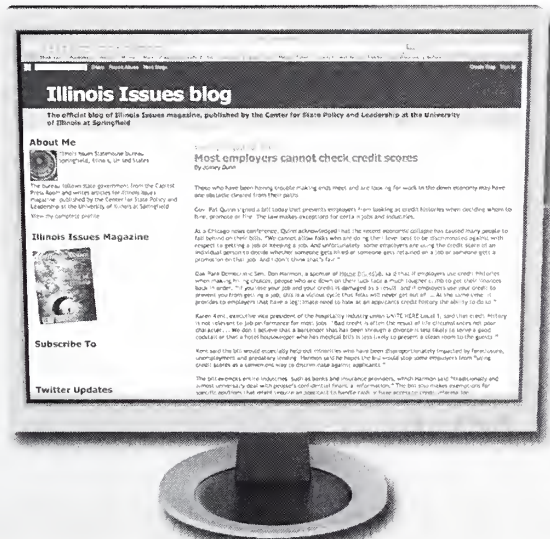
Teenage girls gather in Chicago for the Girl/Friends Summer Institute.

Photograph courtesy of Girl/Friends Summer Institute





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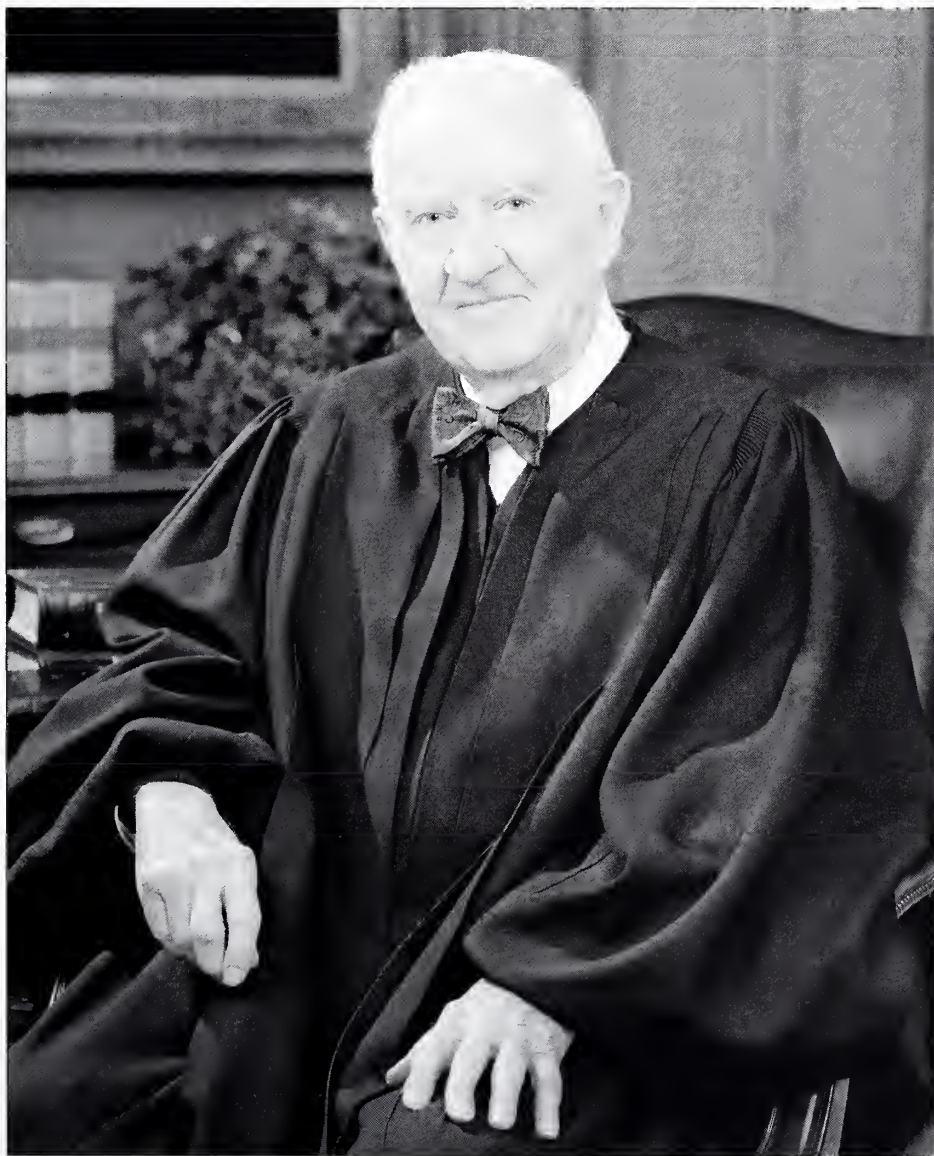


# An astute negotiator

Chicago native Justice John Paul Stevens steps down  
after serving as the court's most senior member

by Maura Kelly Lannan

*Photograph courtesy of the U.S. Supreme Court*



*Retired Justice John Paul Stevens' official court portrait*

When retired U.S. Supreme Court Justice John Paul Stevens wanted to go swimming during a recent trip to Hawaii, many warned him against the idea because of the ocean's strong undertow.

Stevens, now 90 years old, encountered resistance from locals, as well as Navy SEAL trainers on the beach. But the Chicago native, who is a strong swimmer, was determined.

"They said, 'Justice Stevens, it's very rough.' They didn't realize they were dealing with a very astute negotiator," says Stevens' daughter, Susan Stevens Mullen. "He talked his way into the water. ... He's persistent and confident and comfortable with what he's capable of doing."

Those traits also showed in Stevens' work on the Supreme Court, many observers say. Stevens' retirement was effective on June 29, 2010, making him the third-longest serving justice in the court's history. He served 34 years, six months and 10 days.

Stevens declined a request to be interviewed for this article, but many of his former law clerks, colleagues, law professors and Stevens' daughter portray him as a justice who will be remembered for looking at cases individually, treating others with respect and taking his job seriously.

"He considered every case closely and carefully," says Joseph Thai, who was a law clerk for Stevens from 2000-2001 and is now a law professor at the University of Oklahoma College of Law. "He just thought it was an important job that he

executed with a sense of responsibility but without a sense of [his own] importance.”

Stevens was born into a prominent Chicago family on April 20, 1920, and grew up in the Hyde Park neighborhood. His grandfather was the founder of the Illinois Life Insurance Co., and his father built the 3,000-room Stevens Hotel in Chicago, now the Hilton Chicago, in 1927.

But the Great Depression devastated his family's businesses, bankrupting the hotel. Stevens' father, grandfather and uncle were indicted for diverting money from the family's life insurance company to make interest payments on bonds for the hotel. Soon after, Stevens' grandfather had a stroke from which he never fully recovered, and his uncle committed suicide. In 1933, his father was convicted of embezzling \$1.3 million. In 1934, the Illinois Supreme Court overturned the conviction, stating that there was “not a scintilla of evidence of any concealment or fraud attempted.”

Mullen, a lawyer in northern Virginia, says she doesn't think the incident affected the way her father has viewed the judicial system or ruled from the bench, as some have speculated.

“He was just a little boy. It never occurred to him that his father was guilty,” Mullen says. “It wasn't a big surprise when the appellate court overturned the ruling. He had complete faith in his father.”

Stevens attended the University of Chicago Laboratory Schools from elementary grades through high school. He then studied English literature at the University of Chicago, from where he graduated Phi Beta Kappa in 1941.

Stevens joined the U.S. Navy on December 6, 1941, the day before the bombing of Pearl Harbor, and served from 1942 until 1945. He worked as a code breaker during World War II and earned a Bronze Star.

He married Elizabeth Jane Shereen in 1942, and the couple had four children: John Joseph, who died of cancer in 1996; Kathryn; Elizabeth; and Susan. The couple divorced in 1979, and Stevens married Maryan Mulholland Simon in December of that year. Stevens has nine grandchildren and 10 great-grandchildren.

After the war, Stevens attended North-

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***Stevens' friends say he doesn't agree that he has become more liberal, believing instead that the philosophical makeup of the court has become more conservative. Many believe both shifts happened.***

western University School of Law and graduated at the top of his class with a juris doctor degree in 1947. He clerked for U.S. Supreme Court Justice Wiley Rutledge during the court's 1947 term and then entered private practice in Chicago, where he specialized in antitrust law. He also taught at the law schools at Northwestern and the University of Chicago.

Stevens served as associate counsel to the Subcommittee on the Study of Monopoly Power of the Judiciary Committee of the U.S. House of Representatives from 1951-1952. And he was a member of the Attorney General's National Committee to Study Antitrust Law from 1953-1955.

In 1969, Stevens served as counsel to a state commission investigating allegations of bribery on the Illinois Supreme Court. The commission uncovered wrongdoing by the chief justice and an associate justice of the Illinois Supreme Court, and both resigned.

“Stevens just did a very courageous, skillful job in putting this case together,” says Kenneth Manaster, a law professor at Santa Clara University School of Law who wrote a book about the incident and was one of several volunteer lawyers on the commission's staff.

Stevens' work on the commission came to the attention of Republican U.S. Sen. Charles Percy of Illinois, who recommended to President Richard Nixon that Stevens be appointed to the U.S. Court of Appeals for the Seventh Circuit. Nixon appointed Stevens to that court in 1970.

In 1975, President Gerald Ford appointed Stevens to the Supreme Court, based on a recommendation by Attorney General Edward Levi, who was familiar with Stevens' anti-corruption reputation in

Illinois. Stevens took his seat on the nation's highest court on Dec. 19, 1975, replacing Justice William O. Douglas.

Susan Low Bloch, a constitutional law professor at Georgetown University Law Center and author of a book about the Supreme Court, was a clerk for Justice Thurgood Marshall when Stevens, a Republican, joined the court.

“When he first got on, we all referred to him as a maverick because he was very unpredictable as to how he would vote,” Bloch says.

Since then, Stevens gradually became known as a liberal on the court and eventually, the leader of the court's liberal wing. Supreme Court observers and Stevens' friends say he doesn't agree that he has become more liberal, believing instead that the philosophical makeup of the court has become more conservative. Many believe both shifts happened.

“Both the court moved right and he moved left,” Bloch says.

She points to affirmative action and the death penalty as areas in which Stevens' views have shifted to the left.

Soon after he joined the court, Stevens voted to reinstate the death penalty. During Stevens' tenure on the court, however, his opinion of the death penalty changed, and he frequently voted to narrow the scope of it, observers say.

Stevens also changed his views on affirmative action, first opposing its use in a case involving federal contracts and later deciding there are times when it could be beneficial, such as in education.

He was appointed at a time when social issues were not as important to the Republican Party as they became under Presidents Ronald Reagan and George Bush, says John McGinnis, a law professor at Northwestern.

“He's less different from the kind of ideal justice the Republican Party would have wanted in 1975 than the kind of justice the Republican Party would have wanted in 1991,” McGinnis says. “With respect to Stevens, while he's moved to the left, the Republican Party also has moved to the right.” Bloch says Stevens was selected when justices were picked for their abilities and not with a “left-right frame of reference.”

“The court today is much more right versus left, and in that sense, it's very different from the days in which he was cho-





*President Barack Obama and Vice President Joe Biden are photographed with the Supreme Court justices and now-retired Justice John Paul Stevens is fourth from left. Retired Justice David Souter is at right.*

sen," Bloch says. "He was chosen by a Republican but not with some of the extreme views that were held today."

Stevens was an interesting appointment to the Supreme Court because, although his family was socially prominent, he did not come from a political background, says Robert Bennett, a law professor and former dean at Northwestern.

"He wasn't a glad-hander who would go around and try to garner votes this way or that way," Bennett says. "He's such a decent, understated guy that over time, he was able to easily relate to everybody."

For a period of 16 years ending with his retirement, Stevens was the court's highest ranking member after the chief justice. In that position, he decided who would write the court's opinion if Stevens was in the majority and the chief justice was in the minority, or the main dissenting opinion if Stevens was in the minority and the chief justice was in the majority.

Observers say Stevens used that ability well because he often assigned opinions to a justice who might waver in his or her decision. Stevens thought that the act of writing would help strengthen that justice's decision, observers say.

"In a sense, Justice Stevens was able to function as a chief justice of the liberal wing of the court," says Richard Garnett, a law professor at the University of Notre Dame Law School.

Stevens will not be remembered for a consistent philosophy or approach to cases, Garnett says, but for his leadership as the senior justice of a consistent group of left-leaning justices during an 11-year period when the court's makeup stayed the same. That time period, from 1994-2005, was the second longest stretch in the court's history during which its members did not change and the longest since the court has had nine justices, Bloch says.

"He was able to assign opinions in a number of close 5-4 cases. His influence will be his seniority and leadership in that group of justices at that particular time," Garnett says.

Bloch says Stevens would consider each case on its merits.

"He approached each case individually and, within the constraints of the law, tried to do justice," Bloch says. "I think he was his own man who didn't fit neatly into any box. I know we talk about him as a liberal, but I don't think that's really right. He decided the cases as he saw them."

Stevens usually wrote the first draft of his opinions himself instead of assigning that task to a law clerk because he thought it was an important part of his job, Thai says.

Stevens also had his law clerks examine each petition that came to the Supreme Court for consideration. Many of Stevens' colleagues, instead, allowed their law clerks to divide the work with other justices' clerks and exchange findings. That meant Stevens' clerks reviewed 9,302 petitions that were filed for the 2009 term that ended in June; 8,966 the year before; and 9,602 petitions for the 2007 term, says Patricia McCabe Estrada, a spokeswoman for the court.

Stevens sent a letter to President Barack Obama in April that said he planned to retire "effective the next day after the Court rises for the summer recess this year."

Obama nominated Elena Kagan, who was solicitor general of the United States and a former professor at the University of Chicago Law School and former dean of the Harvard Law School, to replace Stevens. She was confirmed by the Senate and sworn in as an associate justice in early August.



On his last day in court, Stevens read a letter to his fellow justices before a crowded courtroom, where many observers wore bow ties in honor of Stevens' favorite choice of neckwear. He said it had been "an honor and a privilege" to have worked with them.

"If I have overstayed my welcome, it is because this is such a unique and wonderful job," Stevens read.

Chief Justice John Roberts also read a statement to Stevens that said, in part: "Your decision to retire saddens each of us in distinct ways. We will miss your wisdom, your perceptive insights and vast life experience, your unaffected decency and resolute commitment to justice. But we also know that your presence will endure through your contributions to the Court's work."

Legal scholars identify a variety of cases for which Stevens will be remembered, including decisions that expanded the rights of prisoners held at Guantanamo Bay, Cuba; established the authority of regulatory agencies; and allowed consumers to record television shows.

They also point to many of his dissents as memorable, including his views that flag burning should not be protected under the First Amendment; that the recount the Florida Supreme Court had ordered in the 2000 presidential race should not have been stopped; and that corporations should not be allowed to spend unlimited amounts on campaigns.

In his dissent in the presidential race case, *Bush v. Gore*, Stevens worried about the case's effect on the role of the judiciary.

"One thing, however, is certain. Although we may never know with complete certainty the identity of the winner of this year's presidential election, the identity of the loser is perfectly clear. It is the nation's confidence in the judge as an impartial guardian of the rule of law," Stevens wrote.

"I think he will be known as one of the great dissenters on the court, and also I think he'll be remembered as one of the true independent justices," said Bill Barnhart, author of a recently released biography of Stevens.

Stevens believes that the way the Constitution is interpreted can change over time and should not be strictly viewed, observers say.



*Justice John Paul Stevens' replacement on the court, Elena Kagan, meets with President Barack Obama. At the time of the photo, she was U.S. solicitor general.*

"He's learned to grow as our society has grown," says Abner Mikva, a former chief judge of the U.S. Court of Appeals for the District of Columbia Circuit who is also from Chicago and is a friend of Stevens. "It's a difficult role, and he's played it very well."

Thai says that "a large part of his legacy is deciding not to decide, is advocating the view that the way that the court should interpret the Constitution is to take little steps over time, to trust in the evolution of law over time and to trust in the wisdom of taking little steps instead of taking large steps."

He adds that Stevens also will be remembered for his independence and intellect.

Cliff Sloan, a law clerk of Stevens from 1985-1986 who is now a partner in the Washington, D.C., office of Skadden, Arps, Slate, Meagher & Flom, observed that Stevens "had such a profound impact on the court in his almost 35 years on the court." He pointed to Stevens' decisions in several cases, such as those that expanded the rights of prisoners held at Guantanamo and others that required the president to follow the law, as important.

Diane Marie Amann, who was a law clerk for Stevens from 1988-1989 and who is a law professor at the University of California, Davis School of Law, says Stevens' legacy will be "significant and long-lasting." She also points to the decisions related to Guantanamo as important.

"Those cases have really required the political branches of government to come up with ways of dealing with persons captured in counterterrorism operations in a way that tracks American tradition of due process far more closely than the

government was doing before the cases were decided," says Amann, who is researching a book about Stevens.

Known for his polite manner of asking questions during Supreme Court arguments, Stevens often would wait until the middle of an argument. Then he would begin by asking, "Excuse me counsel, may I ask you a question?" Sloan says.

"Justice Stevens, in a gentle way, is the most devastating questioner," says Sloan, who has argued in front of Stevens at the Supreme Court five times. "You can kind of hear the saw going into the floor because he asks a question that just cuts right at your case, either at its most weak point or at a point that you hadn't thought of."

Stevens also always treated law clerks respectfully, usually asking their opinions about cases before sharing his thoughts.

"He really could have done the job himself. He knew what he thought, but he treated us as if we were adding something to the process," says Pamela Harris, who was a law clerk for Stevens from 1992-1993 and is now a visiting professor at Georgetown University Law Center and the executive director of the school's Supreme Court Institute.

Manaster says Stevens has "tremendous intelligence, tremendous compassion and a rare degree of humility," adding that Stevens referred to his role on the Supreme Court simply as "his job."

"He's just someone who I think really embodies the best of being a judge. He realizes he's got this responsibility to do his job to represent the public, and that's it," Manaster says.

Stevens, who has homes in Florida and Virginia, is an avid Chicago Cubs fan. (He threw out the first pitch in 2005 at Wrigley Field.) He also enjoys swimming, golfing and playing tennis. He plays tennis with his daughter each week.

Mullen says her father wanted to retire while he was still capable of doing the job well. "He does love his job, but, you know, he's in a very high-profile position, and you don't want to fail in the public eye in that position," Mullen says. "He wanted to retire at the top of his game." □

*Maura Kelly Lannan is a Washington, D.C.-based free-lance writer who previously covered government for the Associated Press in Illinois.*



# Being Green

Rich Whitney leads his third-party ticket

by Jamey Dunn

*Photographs courtesy of the Illinois Green Party*

**G**reen Party gubernatorial candidate Rich Whitney says no single event or aha moment solidified his desire to get involved in politics. Rather, he says, it began with a series of questions he started asking himself about issues that are often seen as intractable problems in modern society.

"Since a very young age, I have always been curious as to why a modern and presumably intelligent human society is unable to solve problems like poverty, lack of opportunity, poisoning of our environment and other chronic problems that seem to be hounding us," he says. Whitney adds that his curiosity was spurred by "feelings about the fact that human suffering seems to be so unnecessary at a time that we have so much productive capacity."

When asked if he had begun to find any answers to some of these challenges, Whitney quipped, "I'm running on them."

Whitney believes that big campaign donations from corporate interests are causing irreparable damage to both major parties and destroying politicians' ability to make the best choices for the state. But a candidate winning a bid for governor without millions in the war chest is unheard of in Illinois. Whitney believes his platform presents specific strategies to address some of the state's big problems, such as the budget crisis, could spell success for him in November. Voter dissatisfaction in both the major parties and possibly some backing from labor unions may play a role, as well.



*Rich Whitney*

A civil rights lawyer from Carbondale, Whitney founded the Illinois Green Party and won it official standing during his first bid for governor in the 2006 election. In the race against Judy Baar Topinka and former Gov. Rod Blagojevich, Whitney pulled in 361,336 votes, 10.4 percent of the statewide total. A statewide candidate can gain established status for his or her party by collecting more than 5 percent of the vote. After that happens, party members are only required 5,000 signatures to get on the ballot for the next election, far fewer than the daunting 25,000 for parties that haven't crossed the establishment threshold.

That showing drew Whitney and the party some recognition. As well as Whitney's bid for governor, Illinois Green Party candidates are competing this year for the U.S. Senate, five statewide offices and several races for the U.S. House of Representatives, as well as the General Assembly.

Whitney's "answers" come in the shape of a platform that includes a state-run bank, support for same-sex marriage, protection of gun owners' rights, the legalization and taxation of marijuana and a "green," environmentally friendly capital construction bill.

He says Illinois voters are ready for proposals that would traditionally be labeled as progressive, but the Democratic Party is to blame for many of those ideas failing to become reality in Illinois.

Most people think of Democrats as being champions of progressive policy, but in reality, they are just as beholden to business interests as their opponents, Whitney says. "We're looking at a much bigger institutional problem known as the Democratic Party. ... Just like the Republican Party, the Democratic Party is a corporate-sponsored party."

Whitney has long sought answers outside the two major political parties, joining the Socialist Labor Party in the 1970s. Whitney no longer identifies as a socialist but says he draws from the experience. "I don't consider myself a socialist anymore, although some of the best ideas of socialism play a role. ... Good ideas are good ideas, no matter where they come from."

He accuses Democrats of “occasionally putting on a show for progressive forces” of their voter base while failing to push any major policy changes. He says the base is growing frustrated with this inaction. “Now, with the Green Party, they do have somewhere else to go.”

Not everyone agrees, however, that the majority of Illinois citizens are ready to support all of Whitney’s ideas. “He thinks government needs to play a major role in our lives. He also favors legalization of marijuana,” says Mike Lawrence, the former director of the Paul Simon Public Policy Institute at Southern Illinois University.

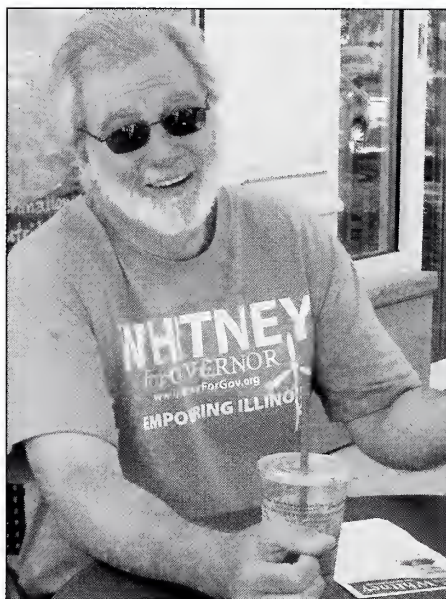
“I give him credit for taking positions that may not be generally popular, but they will — those positions will — become more of a factor if people begin looking at him as somebody who might win or get close to winning,” Lawrence says.

Whitney does support a strong public sector. While other candidates are pushing administrative cuts, he is calling for more state jobs and opposes a recently created two-tier pension system, which rolls back some benefits for workers hired after the new rules were created.

He says revenue from his proposed state bank would help pay down Illinois’ pension obligation at an accelerated pace. Under the plan, instead of hiring investment firms to handle the state’s money, the state treasurer would cut out the middleman and invest it through the state bank. “Instead of private banks making money off our money, we make money off our money.”

The bank, modeled after the Bank of North Dakota, also could provide low-interest loans to students, farmers, small businesses and renewable energy developers, Whitney says, helping to stabilize Illinois’ economy in times of recession by keeping lines of credit flowing. “It seems to me that a good part of the answer [to many institutional problems] has to be in what we do with our public sector, not only to create jobs directly but in allowing real free enterprise to flourish.”

Whitney is also calling for a state income tax increase, which he says would bring in up to \$7 billion. The plan is along the lines of House Bill 174 — previously known as Senate Bill 750



*Most people think of Democrats as being champions of progressive policy, but they are just as beholden to business interests as their opponents, Rich Whitney says.*

and long championed by state Sen. James Meeks — which passed in the Senate last year. That version includes increasing the state income tax by 2 percentage points, bringing the individual income tax up to 5 percent. It also would expand sales taxes on some services. The plan would be paired with relief for middle- and lower-income families. The proposal is geared at taxing based on ability to pay and moving the funding mechanism for K-12 education away from property taxes, a system that many believe creates inequity among Illinois public schools.

Whitney says Democratic Gov. Pat Quinn did not do a thorough job of selling such a tax increase and explaining how all of the components would work together. “I think part of the problem is that when Quinn advocated it, he just talked about an income tax increase in a vacuum, not the kind of comprehensive package that we’ve had with [SB] 750,” Whitney says. “I think the people are ready for it if it’s presented as a complete package.”

He adds that Illinois’ tax system is one of the most regressive in the country and contributes to its budget woes. “It’s no wonder the state is having trouble paying its bills when we have such a backwards system.”

Whitney says an additional small tax, likely pennies or less per transaction, on what he calls “speculative trading,” such as on futures and derivatives, could potentially bring in more than \$4 billion. That tax would not apply to bank transactions or the purchase of traditional stocks. Whitney calls it “kind of a variation of a tax on gambling.”

Energy policy is another area that Whitney believes could be reformed, not just to benefit the environment but also to balance out the state’s regressive tax policy. He backs a “fee and dividend” policy over the better-known cap-and-trade approach to regulating carbon emissions. Whitney says cap-and-trade is difficult to administer, and the system is easy to game. “You see polluters getting credit for not building something that might have caused carbon pollution ... or for exporting carbon pollution to a Third World country.”

Instead, he says, those creating carbon emissions should be charged fees based on output. Whitney admits that would cause short-term increases in energy costs until more Earth-friendly alternatives are sought out. His plan calls for the government to take the money from fees and give most of it back to consumers to cushion the blow of the higher energy costs. Lower-income residents, who would presumably have a more difficult time paying their power bills, would get higher dividends.

Consumers also might put some of the money back into the economy, creating a stimulus. Whitney says he hopes the plan would encourage people to make some energy efficient purchases, such as home insulation, new appliances or more fuel-efficient cars. “You create incentives at all levels, both at the producer and the consumers.”

Government cuts are part of Whitney’s platform, as well. He is calling for a forensic audit and \$2 billion in cuts to trim what he calls pork from the state budget. He admits it is sometimes difficult to determine what is a valuable project and what might amount to a political favor or pure pandering to voters. He says that is why the origin of each project should be traced and its merit assessed.

Lawrence says Whitney has presented a far more specific budget plan than his opponents.





**Rich Whitney speaks at the opening of the Illinois Green Party's office in the Logan Square neighborhood of Chicago.**

"We don't see that kind of candor from the major party candidates." In his Ways and Means column (See *Illinois Issues*, April 2010, page 37) Charles N. Wheeler III wrote: "Whitney's ideas may strike one as unconventional; certainly they're controversial. But unlike Quinn's half-measures and the GOP's sound bites, the Green candidate's platform squarely addresses the state's deficit and proposes detailed solutions. Voters weary of the political games played by the two major parties might find that refreshing."

But with the Whitney for Governor election committee declaring only \$31,967 in campaign funds raised during the January-to-July reporting period, it will be difficult for Whitney to expose voters to his policies through traditional means.

Lawrence, who was also press secretary to former Republican Gov. Jim Edgar, says Whitney just may not have enough money to reach voters. "I think it would be very difficult. He's still not well-known. Candidates typically build name recognition and get their message across through TV advertising."

However, Lawrence says, Whitney's party is gaining popularity. "Green is getting to be a better brand, a more popular brand. People, especially young people, are more environmentally conscious."

While Whitney is against accepting backing from large corporations and business interests, he is courting an endorsement from Council 31 of the American Federation of State, County and Municipal Employees, as well as other labor unions.

He says unions are different from corporations because they represent people instead of prioritizing profits over other moral considerations. "I know there is a tendency in some circles to equate the two. ... Whatever their imperfections, and they do have some, [unions] are still advocates of the interests of working people."

AFSCME does not plan to announce any endorsement for governor until its statewide meeting this month. Even then, it may opt not to endorse a candidate. The union, which is state government's largest, did not make an endorsement in this year's primary or the 2006 general election.

"In the case of a third party, there are going to be obvious questions about their ability to put together a winning campaign. And a lot of those questions are the simple function of your electoral system. But they are questions that have to be answered if you are going to consider making an endorsement decision like that," says AFSCME spokesman Anders Lindall. "At this time, we are looking at all the candidates. Certainly,

## **Green Party statewide office candidates**

**U.S. Senator** - LeAlan M. Jones

**Governor** - Rich Whitney

**Lt. Governor** - Don W. Crawford

**Attorney General** - David F. Black

**Comptroller** - R. Erika Schafer

**Treasurer** - Scott K. Summers

none of them is a stranger to our members."

Whitney says the inaction of both parties in the face of some of the most serious problems the state has faced in recent history should prompt voters to seek out an alternative in November. "Have we hit bottom yet? ... I would hope it doesn't have to get a whole lot worse for people to wake up."

When asked whether he is concerned that his candidacy might pull votes from Quinn, the more progressive of the two major party candidates — and whose platform aligns more closely with Green Party ideals — Whitney says: "This is the worst budget disaster in Illinois history right now, and it has come from seven years of Democratic control of our state government. People need to look at that. What are we getting from Democrats?"

Whitney brushes aside any analysis that focuses more on his effect on the other candidates' numbers than his own bid for the office. "A vote for Rich Whitney to win is a vote for Rich Whitney to win, not a vote for Bill Brady to win. ... This, of all times, is the time to vote for what you want."

Although Whitney says he is in the race to win, long-time observers of Illinois politics speculate that his showing will be similar, or possibly a little better, than his last race for governor. □

# Dreaming of the Illiana

Two governors say they are trying to get an expressway built that would take drivers from the south suburbs to Indiana

by Jon Seidel

Illinois and Indiana lawmakers resurrected a century-old plan this year for a highway to connect Chicago's south suburbs with the Hoosier State. Now Gov. Pat Quinn and Indiana Gov. Mitch Daniels say they are trying to put together a deal to finally build the Illiana Expressway, promising it would create thousands of new jobs and relief for other congested highways.

But Indiana, with a budget surplus of nearly \$1 billion, doesn't have enough cash to build its 10-mile stretch of the roughly 50-mile road. Illinois, much worse off, doesn't either. Instead, the governors want private developers to help build it, in Daniels' words, "with other people's money."

Quinn visited the Lansing Municipal Airport in June and signed a bill authorizing the Illinois Department of Transportation to finance the Illiana's construction through a public/private partnership. Daniels signed a similar bill in Indiana, and he joined Quinn at the airport to ink a memorandum of understanding promising to work together.

"Our agreement requires total cooperation and teamwork," Quinn said at the time. "I think that's the best way to accelerate the building of the road."

Experts give credit to revered urban planner Daniel Burnham for first imagining the Illiana in the early 1900s. Once known as the South Suburban Expressway, it slowly moved south on planners' maps but never materialized.

Today, lawmakers sell the Illiana as a connector highway between Interstate 55 in Illinois and I-65 in Indiana. The governors hope developers will be persuaded to invest private capital into the billion-dollar project and run it as a toll road.

Joseph Schwieterman, director of DePaul University's Chadwick Institute for Metropolitan Development, says Illinois has been slow to embrace creative financing models like this. It might be controversial, he says, but that doesn't make it a bad idea.

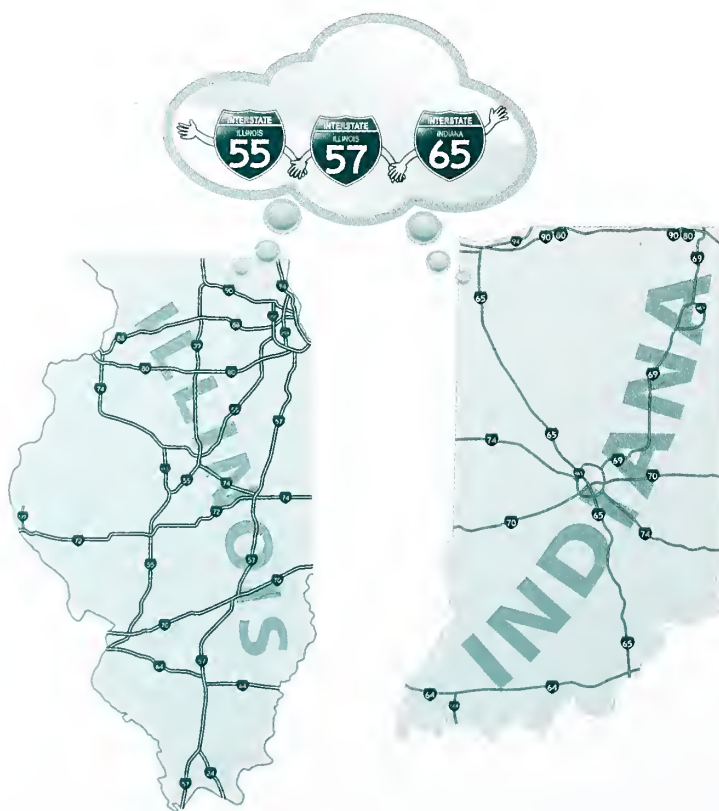
"It's the easiest way to break through the logjam," Schwieterman says.

Using public dollars to build the Illiana would likely take at least another decade, if not longer. At the bill-signing ceremony in Lansing, though, Quinn told reporters the public/private method means the Illiana could be built within as few as six years.

"A creative financing approach could jump-start the process," Schwieterman says. "We could see construction begin much sooner."

What's still unknown is exactly where the Illiana would be built. Massachusetts-based Cambridge Systematics Inc. prepared a feasibility study for the Indiana Department of Transportation last year, when the road was expected to reach only as far west into Illinois as I-57. It studied three routes. Each ran generally from I-65 in Indiana's southern Lake County to I-57 near Peotone.

Peotone is where Quinn wants to build Chicagoland's third airport, another decades-old proposal. In fact, the northernmost





route considered by Cambridge begins southwest of Monee at the proposed interchange for the airport. If built there, the Illiana would connect with I-65 in Indiana less than three miles south of the interchange at U.S. 231.

Another corridor studied would begin just south of the Wilmington Road interchange on I-57 and connect with I-65 two miles north of the State Route 2 interchange. The southernmost option begins at I-57 south of the Will-Kankakee county line and reaches to I-65 at the SR 2 interchange.

It wasn't until this year that politicians started talking about extending the Illiana to I-55. Alicia Hanlon, transportation coordinator for the Will County Center for Economic Development, says the Illiana could be beneficial to a pair of transportation facilities in that corridor, so her agency lobbied for the extra mileage.

The BNSF Logistics Park in Elwood opened in 2002 on 2,500 acres, Hanlon says, and the facility could create as many as 5,500 new jobs at full buildout. The other, CenterPoint Intermodal Center-Joliet, built on 3,900 acres, could create as many as 14,000 jobs by her figures. It opened in August.

"That is really becoming an employment center for Will County and the entire region," Hanlon says.

Finding a final route will be part of the Illiana's next step: an environmental study. Though it could take a few years to finish, Daniels says he wants to line up developers while the study is under way. And he hopes it won't take long.

"If the federal government's serious about the economic emergency, this is the sort of thing they could do that would help a lot," Daniels says. "Time is money."

The Indiana governor has suggested forming a bi-state commission that would be responsible for managing the Illiana project. Though the topic didn't come up when Daniels and Quinn spoke in Lansing, Daniels said the idea is still on the table.

"Whatever will work best for Illinois," Daniels says.

Daniels, Quinn and their fellow politicians have made several promises about what the Illiana would accomplish. They're backed up by last year's Cambridge study.

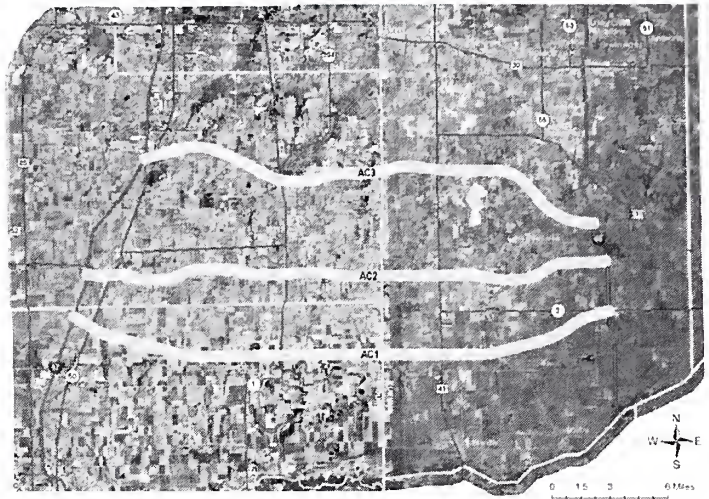
Foremost, they say, the Illiana would relieve congestion on overburdened highways. Interstates 90 and 80/94 and U.S. 30 carry about 216,000 vehicles across the states' border every day, according to Cambridge. I-80/94 alone saw more than 140,000 vehicles daily in 2003. Meanwhile, it says traffic in northwest Indiana and southeast Chicagoland, the area studied by Cambridge, could increase by 35 percent by 2030.

At the same time, Cambridge said motorists can expect to see a 23 percent increase in crashes on their highways. Several roads in northwest Indiana and Chicago's south suburbs are already above the national average in the rate of crashes. I-80 averages 1,748 crashes a year, seven of which are fatal, and U.S. 30 sees about 1,350, six of which are fatal, according to the report.

Cambridge looked at how the Illiana would affect motorists by measuring "vehicle miles traveled" and "vehicle hours traveled." According to its research, building the Illiana could increase vehicle miles traveled by as much as 1.1 percent, depending on where it is built, but it would reduce vehicle hours traveled by as much as 2.7 percent.

For example, Cambridge said a driver could travel from I-57 at SR 9 and reach U.S. 30 and Illinois SR 394 in 33 percent less time using the northern Illiana route. A trip from the Lake County

## Proposed Illiana expressway routes



**Route AC1:** Begins at I-57\* south of the Will-Kankakee county line and reaches to I-65 at the SR 2 interchange.

**Route AC2:** Begins just south of the Wilmington Road interchange on I-57 and connects with I-65 two miles north of the State Road 2 interchange.

**Route AC3:** Begins southwest of Monee on Interstate 57 at the proposed interchange for the Peotone airport and connects with I-65 in Indiana less than three miles south of the interchange at U.S. 231.

\* A later proposal calls for starting the Illiana at I-55 in Illinois.

SOURCE: Illiana Expressway Feasibility Study by Cambridge Systematics, Inc.

border on I-65 to I-80 and SR 394 could be 40 percent faster on that path.

It's clear why Hanlon says there's "virtually no opposition to looking at the Illiana."

Certainly it seems that way. The final version of Indiana's bill passed that state's Senate 42-0 and its House 89-6. In Springfield, there was just one holdout: Rep. Shane Cultra, an Onarga Republican.

"I'm against toll roads," Cultra says. "I just, the way I feel about it is we pay road tax, motor fuel tax, and why should we be double-taxed in letting a private enterprise come in and charge us again?"

Schwieterman acknowledges the toll problem, especially if private investors control the rates.

"I think our state, our region, already is a toll-intensive area," Schwietzman says. "People are asking why we pay so much more than other metro areas."

Indiana leased its toll road in 2006 to the private ITR Concessions Co. The controversial \$3.8 billion lease lasts 75 years. Four years after it was signed, the cost of crossing Indiana on the northern highway has nearly doubled for some.

The cash rate for traveling the 157-mile stretch from Illinois to Ohio in a car rose from \$4.65 to \$8 in 2008. This summer it jumped again to \$8.80. The lease gives the consortium permission to raise tolls every July after 2011 using an economy-based formula. The cost for drivers using electronic transponders remains at \$4.65.

Daniels is using the lease money to fund his 10-year, \$12 billion transportation infrastructure campaign, Major Moves. It calls for 104 new roadways by 2015 with 1,600 new lane miles. By the end of 2009, 34 of those roadways were open for traffic, according to the Indiana Department of Transportation.

The Hoosier governor is especially proud of having locked down the deal shortly before the recession.

"We were fortunate in our timing with the Indiana Toll Road to hit an absolute grand slam with the mother lode," Daniels says. "I don't know if we'll be that fortunate here."

Though the Illiana will clearly create employment, the large number of jobs promised on both sides of the border has raised eyebrows this election year.

Quinn, who said the Illiana is one of the "very best ways" to put people back to work, is battling for his job against Republican Sen. Bill Brady. Quinn's Illiana job estimate — 14,000 new paychecks in Illinois — is slightly more modest than the one in Indianapolis.

Hoosier lawmakers, who are fighting for party control of their House of Representatives, have applied a formula of 2,000 jobs for every \$100 million spent. By that math, the Illiana would create a minimum of 20,000 new jobs.

It's only fair to note the bipartisanship surrounding the Illiana. Democrat Quinn and Republican Daniels enthusiastically touted the project in Lansing, and Brady, who could inherit the Illiana, praises it on his campaign website. Members of both parties sponsored the legislation in each capital. Still, Schwieterman said the promise of so many new jobs is premature.

"This is nowhere near shovel-ready," Schwieterman says. "Playing the jobs card is a little misleading."

Finally, despite his enthusiasm for the project, Schwieterman says the urban sprawl that the Illiana would prompt gives him

pause. He and Hanlon say opponents might spring up once the road's final route is determined.

"There may be a need at some point to protect land in that corridor from development," Hanlon says. "That would prevent the Illiana from being built."

Some Hoosiers also complain the Illiana would figuratively be a runaway to the Peotone airport. Quinn has \$100 million earmarked for Peotone land purchases, and his press office has said the two projects are designed to work in concert. That has caused some hand-wringing among residents in Indiana, where millions have been invested in the Gary/Chicago International Airport to earn the "third airport" distinction. Gary airport officials and Hoosier lawmakers say they're not worried, though. The Gary airport boasts no commercial carriers 15 years after entering a compact with Chicago, but the Peotone airport doesn't even exist. The consensus in Indianapolis is it never will.

Hanlon says the two projects have nothing to do with each other.

"I've heard very little from the supporters of the Gary airport about the Illiana," Hanlon says. "The airport is advancing kind of on a separate track. The Illiana does not need the airport to be a feasible project."

Nevertheless, the Illinois Department of Transportation has begun eminent domain proceedings on four parcels totaling 502 acres in the area targeted for the airport.

Schwieterman says, "Illiana would be a huge boost for the Peotone effort." □

*Jon Seidel covers the Indiana General Assembly for Northwest Indiana's Post-Tribune.*

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# Revisiting restructuring

A 1995 change in governance for Illinois' public universities has had varying results for those schools

by Jack Van Der Slik

In 1995, the Republican administration of Gov. Jim Edgar concluded a significant restructuring of Illinois' public universities. In the governor's constitutionally mandated chronicle of his administration (*Meeting the Challenge: the Edgar Administration 1991-1999*), the accomplishment is described this way:

*What resulted was the most far-reaching change in university governance in Illinois since the 1960s.*

*Signed into law in 1995, the measure gave seven state universities their own governing boards and abolished the Board of Regents and the Board of Governors. Each of the schools — Illinois State and Northern Illinois universities, previously governed by the Board of Regents, and Chicago State, Eastern Illinois, Governors State, Northeastern Illinois and Western Illinois universities, previously overseen by the Board of Governors — became self-governing, with their campus-based boards appointed by the Governor. The result has been more accountable institutions because responsibility for decision-making and results is localized. Each board also includes a student trustee, elected by the university's students, who has full voting rights.*

*The eighth University affected by the new governing plan, Sangamon State University in Springfield, became the third campus of the University of Illinois. The law also gave Edgar authority*

*to appoint the nine University of Illinois trustees instead of having them elected statewide, again increasing accountability and responsibility.*

*The state saved millions of dollars by eliminating bureaucracy and has been able to invest that money in undergraduate programs.*

Edgar and then- Lt. Gov. Bob Kustra had tried and failed to enact the restructuring during the 1994 legislative session. But later that year, Edgar was re-elected against Dawn Clark Netsch by a sweeping 64 to 34 margin, and Republicans won all the statewide executive offices and gained control of the House and the Senate.

Richard Wagner, then executive director of the Illinois Board of Higher Education, recalled later that on election night, he immediately recognized that restructuring would soon become law. And Republican Sen. Kirk Dillard noted that the idea was on the governor's mind at the inaugural ball. That is when Edgar asked Dillard to sponsor the legislation in the Senate. With little need for compromises, the bill was put on a fast track to passage, giving the governor what he wanted.

Present-day observers acknowledge that although the restructuring dissolved the bureaucracies of the Board of Regents and the Board of Governors, it created seven different individual university boards and staff support for each of them. Mark Wilcockson, now a vice president

for finance at Northeastern Illinois University and formerly associate director of fiscal affairs at the IBHE, says no one asked for a follow-up study of the "savings," including additional costs that the campuses had to bear after the breakup of the systems. He noted, however, that computing operations had been centralized for the Board of Governors schools, and after the breakup, those schools "had to pick up those costs and operations, which were fairly significant and burdensome."

During the restructuring, one of its proponents, Paula Wolff, then president of Governors State University, argued that future results at the various universities would improve through competition. Given more local control of tuition and academic programs, schools would compete by offering quality programs at attractive tuition rates, thereby gaining more students and financial support. Having worked through the transition, Wolff, now a senior executive for Chicago Metropolitan 2020 and chair of the board of the Illinois Tollway, continues to favor competition.

"We had a great board with an excellent chair, Sally Jackson. This made the work flow easily from the BOG to our own board. I felt that the focus on one institution was useful for us. The tradeoff, of course, was that the board did not necessarily see the comparisons with other schools in order to benchmark our progress."

Comparisons are difficult to make, but two statistics are possible clues. One derives from IBHE-reported state appropriations for individual universities' operations. Using Fiscal Year 1997 as a base and FY 2010 for the most recent snapshot, the accompanying table reports the most recent appropriations as a percentage of the base year. The results show variation from a high of 139 percent at Chicago State to a low of 114 percent at Northern Illinois. Of the four highest percentage "winners," three are independent universities in the greater Chicago area.

The table also reports the most recent available fall enrollment numbers for the various schools (in 2008) as a percentage of the number in 1996. The variation shows the greatest increase at Southern Illinois University Edwardsville (122 percent) and the greatest decline at Chicago State University (72.1 percent). Three other campuses exceeded 110 percent: Northeastern, Northern Illinois University and the University of Illinois Urbana-Champaign. Two additional campuses declined: Governors State and SIU Carbondale.

The 1995 changes endowed the state's flagship university, the University of Illinois system, with a governor-appointed board rather than a politically elected one. In 1995, the education community anticipated that a variety of distinguished people would accept such appointments — people who would not ever consider running for election to such positions. What was not expected was a lack of serious concern by governors about their appointees. Mike Lawrence, a Statehouse journalist for many years, former director of the Paul Simon Public Policy Institute at Southern Illinois University and press secretary to Edgar in the 1990s, tersely expressed his views of how matters turned out:

"Gov. Edgar took very seriously the responsibility of appointing trustees at all the universities. Gov. Ryan took it less seriously, and Gov. Blagojevich approached the appointment of trustees with the same fecklessness he brought to almost every decision."

Gerald Shea, a former legislator and the senior principal in his own lobbying firm, was a key Ryan appointee to the U of I board. Shea's firm is known for its slogan, "We know government and government knows us." As board chairman, Shea brought an old-style bargaining approach

Universities	2008 enrollment as a percent of 1996	State appropriations for operations in FY2010 as a percent of FY1997*
Chicago State	72.1	139
Eastern Illinois	102.8	127
Governors State	90.9	136
Illinois State	105.5	117
Northeastern	111.5	126
Northern Illinois	112.9	114
Southern Carbondale	94.6	* 120 (systemwide)
Southern Edwardsville	122.0	* 120 (systemwide)
U of I Chicago	103.6	* 119 (systemwide)
U of I Springfield	102.2	* 119 (systemwide)
U of I Urbana	111.3	* 119 (systemwide)
Western Illinois	108.1	119

\* Appropriations for the U of I and SIU systems are not specified by campus.

and attention to internal matters to university governance. Blagojevich made appointments to university boards and the IBHE that placed political donors with dubious scruples about higher education governance into key positions. Lawrence sees the deposed governor this way: "Gov. Blagojevich made it clear from the outset of his administration that higher education would not be a priority. In fact, he belittled it and underfunded it. He also undermined the Board of Higher Education by dealing directly with university presidents on budget matters."

A 2009 scandal revealed that political pressure was applied through some board members at the state's most selective state university on behalf of potentially unqualified students. Embarrassment about the tainted admissions process led to the resignations of U of I President Joseph White and Urbana Chancellor Richard Herman. Only after the unprecedented impeachment of Blagojevich in 2009 did new Gov. Pat Quinn reconstitute the board with several new and distinguished members. Stanley Ikenberry, previously president of the U of I from 1979 to 1995, was appointed to bring a steadying hand as interim president of the university. More recently, Michael Hogan assumed the presidency.

The changes to the IBHE from the 1995 restructuring came primarily in the form of what it didn't get when the seven universities received their own boards for independent governance. The IBHE had

to take on new difficulties in coordinating educational goals and directions at the various institutions. Its statutory responsibilities for budget development, program reviews and approval, and maintenance of higher education information systems remained.

But Ross Hodel, past deputy director of IBHE and later, the director of the Center for the Study of Educational Policy at Illinois State University, points out that the processes became more "messy." Now the executive director deals at a distance with nine university presidents rather than four system heads. Although the board had requested enlarged administrative powers in the 1995 restructuring, they weren't approved. As a consequence, IBHE has difficulty imposing checks and balances on the universities.

Judy Erwin, who retired in August as executive director at IBHE, acknowledges as much. She says, "We don't focus on governance." The individual schools define and specify their own missions and goals, and IBHE has limited control over "mission creep."

Instead, Erwin and her staff turned their attention to the "public agenda for Illinois higher education." The IBHE gave staff support to an appointed cross-section of state leaders who drafted a plan mandated by the legislature in 2007 for directing state policies and resources toward the educational and career needs of Illinoisans and especially toward the state's future economic improvement.



Erwin aimed her efforts at measuring higher education quality, boosting degree completion rates, improving cost effectiveness and generating longitudinal student outcomes data. Her concern? “We are not educating for the workplace.”

What is clear 15 years after the restructuring is that there have been institutional winners and losers. During the current era of disinvestment by the state in its universities, the University of Illinois has parlayed its academic standing into sustained income from external grants and contracts. It has been able to grow enrollments despite tuition increases. Its alumni have responded to appeals for funds. Across the national spectrum of major universities, it still has high standing. Having adopted Sangamon State University, the U of I has made good on a comment by President Ikenberry in 1993: If the U of I accepted responsibility for SSU, it would “make it a first-class institution.” Hodel says that under the U of I umbrella, that campus has become “a premier small liberal-arts public university.”

Initial worries about funding for Chicago State and Northeastern universities were misplaced. Rep. Barbara Flynn Currie, the Democratic House majority leader from Chicago, described political credit this way: “In the money game, Chicago State has done better than most — the institution had a very strong voice in former Senate President Emil Jones. And these days, [Sen.] Rickey Hendon is leading the charge.” Northeastern has received legislative benefit from being an institution that serves Hispanic students, and its enrollment has increased substantially.

Northern Illinois University has benefitted most from its independence. Its enrollment is up 13 percent since 1996. Its stature as a university has risen markedly with recognition from the National Association of State Universities and Land Grant Colleges, as well as the Association of Public and Land-grant Universities. The Carnegie Foundation recognizes it as a research institution. “It is my impression that restructuring of the system of systems and giving an independent board to the campuses probably helped NIU more than any of the others,” says John Jackson, former interim chancellor at SIUC. NIU’s president, John Peters, now the longest-serving Illinois

public university president (since June 2000), has provided visionary leadership that the university’s board recently recognized with a resolution of great praise. About assuming the presidency Peters says, “Having spent the formative years of my career at flagship campuses of large land-grant universities, I would not have been attracted to a university that was part of a small regional university system.”

Illinois State University absorbed a number of politically savvy higher-education people after the demise of the BOR and the BOG. In budgetary terms, it and all the state universities prospered during the second Edgar administration. But even during the penurious Blagojevich years, ISU benefitted in capital development from political connections with the governor’s legislative director. Its partisans fancy themselves in close pursuit of NIU’s successes.

Relatively speaking, SIUC has suffered the most since the 1995 restructure. Characterized in planning documents during the 1960s as the “second jewel” in the state’s higher education “crown,” trailing only the Urbana campus of the U of I, its decline is palpable. Located a long way from metropolitan populations, it has struggled to maintain undergraduate enrollments. As John Jackson notes, “Our rural setting far from Chicago is a constant challenge.” Meanwhile, graduate programs have atrophied, and leading scholars have departed for richer opportunities elsewhere.

Southern Illinois University as a system has avoided overall enrollment decline primarily because of undergraduate recruitment in and beyond the St. Louis metropolitan area for its Edwardsville campus.

The remaining regional schools — Eastern, Western and Governors State — are resisting decline as best they can while financial resources dwindle.

Edgar’s restructuring changed university governance by localizing decision-making. The benefits of that leeway show most clearly at Chicago State, Northeastern, NIU and Illinois State. Sangamon State — now UIS — on the other hand, has achieved recognition for undergraduate excellence since its adoption into the U of I system. Dissolving bureaucracy may not have saved money, but bureaucracy was dispersed, and so were

*Photograph courtesy of Southern Illinois University Carbondale*



*Students at Southern Illinois University Carbondale*

its dollars and intellectual resources.

Samuel Gove, director emeritus of the U of I’s Institute of Government and Public Affairs, judges that the IBHE’s leadership potential was curtailed to ministerial functions. Wolff laments a lack of “real accountability” deriving from a “lack of trust in creating a bureaucracy that can make higher education accountable.”

Jackson acutely summarizes the proverbial “elephant in the room.” As he observed in June: “The political system is so toxic and so dysfunctional that the competition between universities is simply overwhelmed by the financial crisis. In that, we all share and share alike.” NIU is owed \$43 million [from state government]; SIU is owed \$106 million; the U of I is owed \$366 million; and the whole of higher education is currently owed more than \$630 million. That is on money appropriated for this fiscal year, [which ended June 30.] That fact simply overwhelms all rational planning and is a constant reality at all the universities, and all of us together — or any one university acting separately — have not been able to do anything much about the mess.” Since then, Quinn vetoed \$87 million from public university operating funds in the FY 2011 budget, bringing funding back to the FY 2006 level.

Unlike the 1990s, new “far-reaching” changes are genuinely needed for Illinois higher education today, but they are not a matter of whether to structure higher education as it used to be or as it is. The formula is simple: Reverse the state’s disinvestment at all levels of Illinois’ educable students. □

*Jack Van Der Slik is an emeritus professor of political studies and public affairs and was director of the Illinois Legislative Studies Center at the University of Illinois Springfield from 1983 to 1998.*

# To gerrymander or not

What kind of electoral districts does the public want?

by Brian J. Gaines and James H. Kuklinski

A coalition led by the League of Women Voters recently tried but failed to get a constitutional amendment onto the November ballot to change the way electoral districts are drawn in Illinois. Relying on volunteers, they could not muster the necessary 300,000 signatures by the May deadline. The state Constitution cannot be amended again until November 2012, and the new district map must be in place by then. So, well before the 2010 election even takes place, it is already too late to alter the procedure that will control how electoral maps that will be used all the way through the 2020 elections are drawn.

Redistricting commands the full attention of legislators, whose political careers depend heavily on the results, and of academics and pundits. Every 10 years, specialists opine about optimal procedures and outcomes, but what does the public think and want? It is rare to find polls or surveys quoted in discussions about how electoral maps should be made, probably because the topic is thought to be too specialized and obscure for the general public.

In May, the Institute of Government and Public Affairs at the University of Illinois commissioned a survey of 500 Illinois registered voters to examine both knowledge and preferences about redistricting. Our findings confirm that even registered voters know fairly little about the process. On the other hand, most do have opinions about who should oversee redistricting and what criteria they should

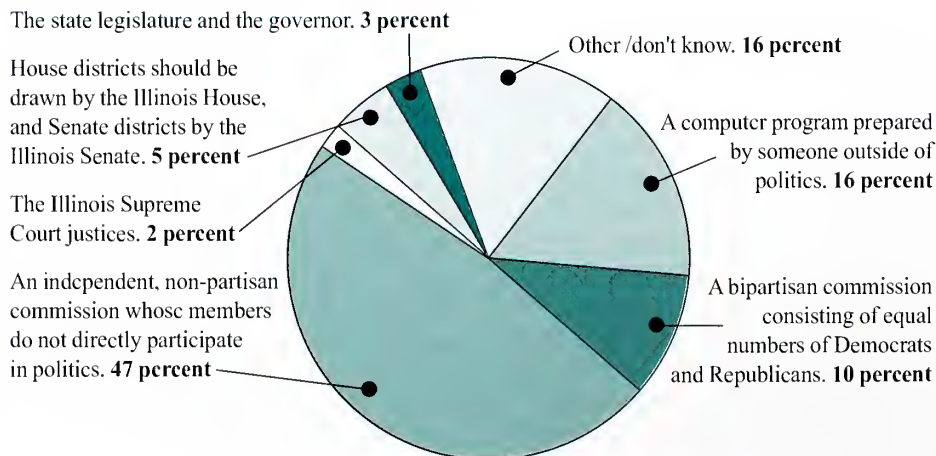
use. Voter preferences differ considerably from the reality of redistricting in Illinois.

Illinois legislative and congressional districts are redrawn every 10 years, after the U.S. Census Bureau's population count. Under the present system, when one party controls the General Assembly and the governorship, it can draw any map it wishes, as long as the courts will tolerate it. Because courts tend to ignore partisan fairness, one-party control of government is a recipe for an unfair map that favors that party over the other. After the release of census data in 1980, 1990 and 2000, Illinois had divided control of government, but even then, partisan gerrymanders prevailed.

Most *Illinois Issues* readers know that the explanation lies in the state's bizarre tie-breaking rule. If bipartisan compromise fails, a lottery gives one party an extra member on a previously balanced commission. Three times in a row, no bipartisan deal could be hatched for the state electoral map, and the right to gerrymander was instead drawn from a hat, with a party-line vote following. As a result — and to the detriment of serious electoral competition — the public has suffered through two decades (the 1980s and 2000s) where General Assembly elections deliberately advantaged Democrats, and another (the 1990s) where they benefitted Republicans.

**Figure 1**

**“Who do you think should be responsible for drawing the electoral districts for the Illinois legislature?”** (Responses: 500 registered voters)





**When asked whom they would like to draw maps, most respondents answered — and nearly half endorsed — “an independent, nonpartisan commission whose members do not directly participate in the political process.”**

No one really defends the current procedure in Illinois or its output: maps engineered by one party to favor themselves and penalize the opponent. But does the public care or even notice electoral map-making? A full 75 percent of our survey respondents said that they had not heard anything about the “Fair Map” amendment championed by the League. When asked how the current state legislative maps were drawn, 80 percent admitted that they did not know, and less than 10 percent chose the most accurate description. Results were similar when we asked about the current U.S. House districts.

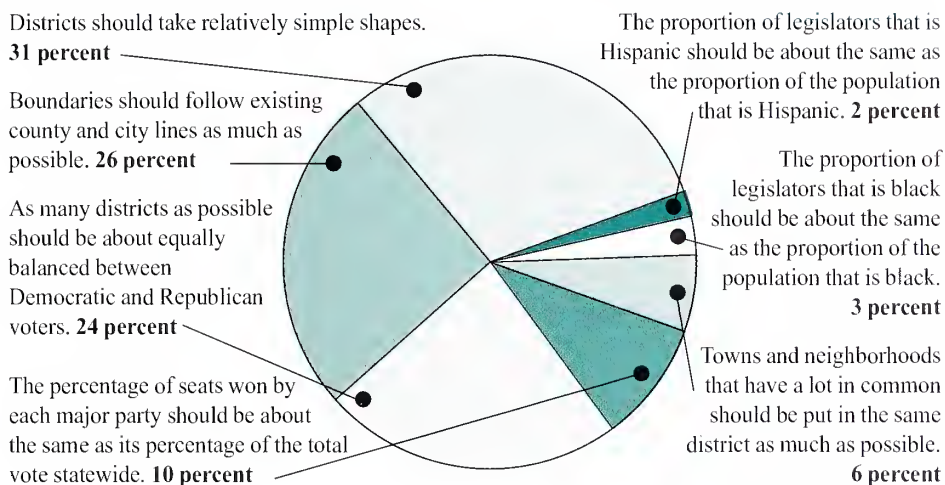
Ignorance, however, is not indifference. As Figure 1 shows, when we asked whom they would like to draw maps, most respondents answered — and nearly half endorsed — “an independent, nonpartisan commission whose members do not directly participate in politics.” A meager 18 percent chose the three options in which current politicians would draw the maps, in various configurations. The contrast between actual and preferred could not be greater. The public will not get the procedure it would prefer in 2011, but what about the outcomes? What else do voters want in a map?

We asked respondents to rank seven potential criteria for what constitutes a good map. Table 2 shows which proportion selected each option as the most important in the survey (the options were ordered randomly for each respondent).

**Figure 2**

**“There are many possible ways to think about what constitutes a good set of electoral districts. Please rank the following nine goals.”**

Responses: 474 registered voters (26 respondents declined to answer)



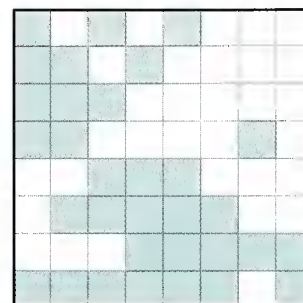
(Note: Percents don't add up to 100 because of rounding.)

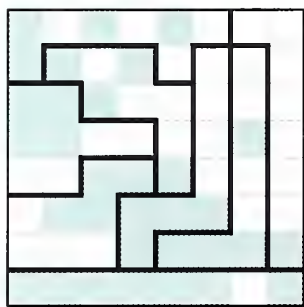
Three principles were clearly deemed more important than the others. Our respondents value districts with simple shapes that follow pre-existing lines. Perhaps surprisingly, minority representation wasn't a priority for map-making, even for minorities. Less than 20 percent of the black respondents ranked ensuring proportional black representation either first or second. More than 50 percent of Hispanic respondents placed proportional Hispanic representation in fifth place or lower. By contrast, competitive races were ranked first by about a quarter of the respondents.

Having more legislative districts in which Democrats and Republicans are about equally numerous might seem important to Illinois voters precisely because so few seats fit that description at present. Respondents were asked: “About what percentage of the members of the Illinois General Assembly currently in office do you think faced no opponent in their last general election?” The correct answer is 44 percent (77/177), and overall, respondents were fairly accurate: 51 percent was the most popular answer, and nearly a quarter of respondents chose answers between 40 percent and 55 percent. More important, 30 percent of respondents characterized those uncontested races as “disgraceful,” and an additional 53 percent called them “disappointing.” The failure of the proposed constitutional amendment certainly does not mean that voters are happy

with the status quo in elections to the General Assembly.

Ranking various principles of map making is a bit abstract and does not confront respondents with any tradeoffs. We were particularly interested in whether those with firm party allegiances would endorse maps that seem to skew in their favor, given the chance. So we gave our respondents a more interesting — albeit difficult — task of choosing from a set of alternative maps. Our goal was to construct a scenario that created tension between the criteria of simple shapes and partisan advantage, so we drew maps for a highly stylized fictitious case. We showed respondents the image below and explained: “Please consider a hypothetical redistricting problem. In the perfectly square state pictured below, there are 64 square counties. Each county contains 100 people. Thirty-two counties have 100 Democrats (those squares are white) and 32 counties have 100 Republicans (those squares are shaded). The new electoral map must consist of 8 districts, each containing 800 voters. Please rank the 6 pos-





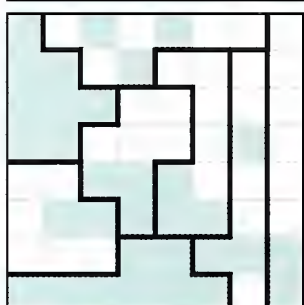
Map A



Map B



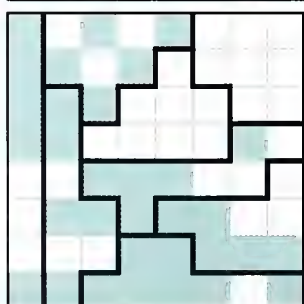
Map C



Map D



Map E



Map F

sible maps shown below from best to worst, on whatever grounds you like.”

The maps were chosen so they would vary both in partisan fairness and simplicity. At a glance, maps B, C, and E have simple “compact” districts, while the other maps use twisty districts that fail formal tests of compactness. What about partisanship? Given the clustering of Democrats in the northeast and Republicans in the west and south, these maps also differ in how many seats each party could expect to win.

Consider, for instance, Map B. Three of the districts on this map are lopsidedly Republican, housing 700 Republican voters and only 100 Democrats each. Those are the northwestern and two central southern districts. The other five districts all have Democratic majorities, by 500-300 in three cases and 700-100 in two. Hence, Map B should convert equal numbers of voters for the two parties into five Democratic seats and only three Republican seats. In other words, it exhibits slight bias in favor of the Democratic Party. Evaluated in this manner, all of the maps

turn out to be either a little or a lot biased, except for Map A, which has six perfectly balanced districts. Figure 3 summarizes.

Selecting a preferred map from various options is an unfamiliar task, even to those who follow politics closely. So we were not surprised that when we divided up our respondents according to their declared party preference — Democrats, Republicans and independents — each map had some fans in each group. Nonetheless, interesting patterns emerged, as the bottom part of Figure 3 reveals.

Map A, which is fair but not compact, was generally disliked. For all three groups, it had the highest or second-highest average rank, meaning it was regarded, on average, as the worst or second-worst option. Far more Republicans and Democrats ranked it in last place than in first place. Independents liked it better, but a majority of them still had it ranked fourth, fifth or sixth out of six.

Most Republicans embraced the compact and simple map that slightly favored their party, Map E. About 60 percent had

**Figure 3**  
**Qualities of the six maps tanked by respondents**

Map	Compactness	Expected seats	Bias
A	low	1 D, 1 R, 6 ties	none
B	high	5 D, 3 R	somewhat pro-Democrat
C	moderate	5 D, 3 R	somewhat pro-Democrat
D	low	6 D, 2 R	very pro-Democrat
E	high	3 D, 5 R	somewhat pro-Republican
F	low	2 D, 6 R	very pro-Republican

**Average ranks of maps, according to respondent partisanship (lower is better)**

	A	B	C	D	E	F
Democrats	3.9	3.0	3.1	3.9	2.8	4.2
independents	3.4	3.0	3.2	4.3	2.9	4.0
Republicans	4.1	2.7	3.2	4.2	2.6	4.1

Respondents: 191 Democrats, 120 independents, 119 Republicans  
(70 respondents declined to rank maps or to express party identification)



it ranked first or second. They were just a bit less keen on the equally compact map that helped the Democrats win the extra seat, Map B. Their partisanship, however, had its limits, as they were very cool toward Map F, a twisty mess that should elect six Republicans and only two Democrats. Only 15 percent rated F best or second best.

Democrats, likewise, did not embrace the messy map. They cooked the books in their favor, Map D. They seemed to like both of the most compact maps, B and E, about equally well, overlooking or ignoring the differences in partisan bias. With the caveats that this exercise is stylized and somewhat tricky, we nonetheless think it interesting and impressive that compact, simple districts hold so much appeal for ordinary voters. Even those who self-identify as “strong” Republicans or Democrats did not seem to like gerrymandering to assist their own parties very much.

In our survey, one-third of the respondents said they “never” trust the Illinois state government to do what is right,

more than double the proportion that gave that answer in 2006. Only 10 percent said state government does what is right “most of the time,” less than half the percentage from four years ago. Redistricting is not the direct source of that public disgust. Few voters know how redistricting is accomplished, and probably only those who follow politics closely appreciate just how much it matters. But one of the results of gerrymandering is too little competition, and voters are not happy with uncontested races. Moreover, our respondents do not seem to put party ahead of fairness.

For House Speaker Michael Madigan and Senate President John Cullerton, who are both Democrats from Chicago, the power to use districts to engineer desired results is surely tempting. It makes sense in the calculus of raw political power for them to wait for the outcome of the governor’s race, and if Democrat Pat Quinn wins, to push through maps designed to freeze in place a Democratic advantage. If Republican Bill Brady wins, they might take their chances on the lottery; so far,

Lady Luck has been kinder to the Democrats. But those are political calculations, not judgments about the best interests of the people.

A transparent redistricting process, including wide-open discussion of the pros and cons of many maps — including some not drawn by legislators and their agents — would be a good civics lesson. Moreover, if the resulting elections feature more competition, the public would approve. Not gerrymandering, in short, could be a step toward repairing the badly decayed foundations of public trust in state government. □

*Brian J. Gaines and James H. Knklski are faculty members in the Institute of Government and Public Affairs at the University of Illinois.*

*The redistricting survey by the IGPA was conducted by YonGovPolimetrix, using sample matching. Respondents were opt-in online panelists, confirmed to be registered voters and matched by demographic traits to a truly random sample drawn from the Illinois voter list. The margin of sampling error for percentages reported from the data is approximately plus or minus 4 percent.*

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## UIS POLICY CENTER HAS NEW DIRECTOR



David Racine



Anthony Halter

**David Racine** has been named interim executive director of the Center for State Policy and Leadership at the University of Illinois Springfield. He succeeds **Anthony Halter**, who retired in June.

For the past three years, Racine has led one of the units within the center and continues those duties in a dual role. As director of the Institute for Legal, Legislative and Policy Studies, he oversees research and evaluation projects for state agencies and organizations that serve the public.

The institute's projects include improving the linkage between mental health and criminal justice systems, testing instruments for improved detection of high-risk DUI offenders, strengthening the design of services for adults with autism and disseminating mobile crash reporting technology among police departments. Racine also oversees state training systems for probation officers and DUI management, customized

that aims to improve the lives of people in low-income communities. He was a founding staff member and chief executive officer of the Points of Light Foundation. Among his other accomplishments, Racine served as policy adviser to former New Jersey Gov. Tom Kean and as legislative director to U.S. Sen. John Danforth of Missouri. He has a doctorate degree from the Virginia Polytechnic Institute and the State University Center for Public Administration and Policy.

Racine says one of his goals at UIS is to "reclaim the mantle of being a public affairs institution." For various reasons, he says, that focus has diminished over the past decade.

"The center needs to be at the center of an effort to help the university refocus on what it means to be a higher education institution in the state capital and be able to use that to earn a national reputation."

management and leadership training services for public and non-profit employees, and the Illinois legislative internship program.

Before joining UIS, Racine was vice president and senior fellow at Public/Private Ventures, a national nonprofit

Halter, who retired June 15, became the executive director of the Center for State Policy and Leadership in 2006. Before his retirement from teaching in 2002, he was a professor in the School of Social Work at the University of Illinois Urbana-Champaign for 15 years. His research concentrated on welfare reform, general assistance, family support, poverty and homelessness.

Prior to his academic career, Halter held various administrative and supervisory positions in government and education, including posts with the New York Department of Social Services. In addition, he was director of adult education for the Milford, Pa., school system and was a policy analyst with the Commonwealth of Pennsylvania Department of Public Welfare. He has a doctor of social work degree from the University of Pennsylvania.

As director of the Center for State Policy and Leadership, Halter instituted an advisory board of academicians and community members. He says he strived to make connections to the community, both in the capital and across the state, to carry out the center's mission of public affairs research and civic engagement.

"This university began with a commitment to public affairs. That is the foundation of this campus. Losing sight of those roots is like saying, when studying the Bible, that we can begin with the New Testament," he says.

*Illinois Issues* is one of seven units in the Center for State Policy and Leadership at UIS.

*Beverly Scobell*

## Mayfield replaces Rep. Washington

**Rita Mayfield** of Waukegan is the new 60th District state representative. She replaces **Eddie Washington**, who died in June.

Mayfield, who was selected by Lake County Democrats, served three years on a Waukegan school board.

"The first thing I want to do is to see that we keep what we have," she says of her district. She says she believes she was selected because of "my desire to see this community prosper."

A major issue she wants to tackle is education, particularly early childhood education.

She works as manager of workforce development for Goodwill Industries of southwest Wisconsin. She also worked 15 years as a senior business analyst for Pace, the regional transportation agency for the Chicago suburbs.

She has a master's degree from Benedictine University in Lisle.

## Governor loses spokesmen

**Bill Cunningham**, who was hired in June to be communications director for Gov. Pat Quinn, took an indefinite leave of absence a few weeks later because of his decision to run as the Democratic candidate to replace Rep. **Kevin Joyce** of Chicago. Cunningham, who had been chief of staff for Cook County Sheriff Tom Dart, replaced Robert Reed, who returned to the private sector. Meanwhile, deputy press secretary **Marlena Jentz** stepped down in July to pursue a master's degree at the Harris School of Public Policy at the University of Chicago. As of press time, no replacements had been named.

**For updated news see the *Illinois Issues* Web site at <http://illinoisissues.uis.edu>**



## Obits

### Dan Rostenkowski



Dan Rostenkowski

The former Democratic U.S. congressman who came to symbolize the best and worst of Chicago political power died August 11. He was 82.

Rostenkowski was best known for bringing home the bacon. As the chairman of the powerful House Ways and Means committee, he was able to negotiate millions of dollars for construction in his home city.

### Mary Lou Cowlshaw

The longtime state representative and advocate for schools died June 23 of cancer. She was 78.

She served her Naperville area district from 1983 to 2003. During that time, she pushed for such legislation as Chicago school reform, the opening of the Illinois Math and Science Academy and the education of homeless children.

Says state Rep. Patti Bellock of Hinsdale: "I found her to be the voice of reason. She did not speak a lot on the floor, but when she spoke, everybody listened to Mary Lou because she was so articulate, so bright, and she always was the voice of common sense."

Cowlshaw was a longtime staff member at the *Naperville Sun*, where she won a first-place award from the

The 1986 rewrite of the tax code was one of the most important pieces of legislation he helped to guide through the U.S. House. The 18-term congressman was able to reach across party lines and was renowned for his ability to hammer out compromises.

Former Republican Gov. Jim Edgar recalls coming to his office shortly after being elected and finding Rostenkowski. "There was one of the most powerful men in Washington sitting outside my office," Edgar says the congressman had come that day "to congratulate me and to tell me that I was his governor."

Edgar said of Rostenkowski's death: "It's a loss of a good friend. And also someone who served Illinois very well in Congress."

In 1994, Rostenkowski was accused of skimming almost \$700,000 from his congressional office through a series of small frauds, such as cutting into his postage budget and putting people on the payroll to do personal chores. He lost his re-election bid the same year. He took a plea deal and served 15 months in federal prison and two in a halfway house.

Illinois Press Association for investigative reporting.

At the time of her death, she was an adjunct professor of education at North Central College in Naperville. She had been a school board member for one Naperville school district, and another named a new school for her in 1997.

### Virginia Frederick

The former lawmaker from Lake Forest died May 30. She was 93.

A Republican, she was the first woman elected to the Lake Forest city council. She served as a state representative from 1979-1994.

Frederick received a bachelor's degree from the University of Iowa and a masters degree in liberal studies degree from Lake Forest College.

### New acting director for Juvenile Justice

Arthur Bishop has been named acting director of the Department of Juvenile Justice. Bishop, who was serving as deputy director of field operations for the Illinois Department of Children and Family Services, was tapped by Gov. Pat Quinn to lead his proposed merger of the

two agencies.

He replaces Kurt Friedenauer, who was appointed by former Gov. Rod Blagojevich to head the department when it split from the Department of Corrections in 2006. Friedenauer resigned in July.

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## An idea to deal with pension crisis

I read your article on the problems with the Illinois pension fund. There are a number of ways to deal with this, but some are more severe than others.

Some have suggested that the Congress pass a law which allows states to declare bankruptcy, and then they can renegotiate the union pension plans and this will work, but I have a less painful solution. You can explain to all state employees that for the next many years (10 or 20) they will have to get by with pay raises that equal one half of the inflation rate. You can do the calculations or have an actuary do them to determine the number of years.

While this will hurt the state employees, at least you are up front with them, and they can begin to adjust their budgets accordingly. I think they would prefer this to waiting until later and finding out that their pension is in jeopardy.

*John Novick  
Hastings, MN*



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Charles N. Wheeler III



## Public opinion appears to have shifted in the capital punishment debate

by Charles N. Wheeler III

Ten years after former Gov. George Ryan declared a moratorium on executions in Illinois, death penalty opponents say efforts to repeal capital punishment here are gaining momentum.

The guarded optimism is fueled in part by recent polling data they believe shows public support for capital punishment eroding, as Illinoisans reflect on a decade without executions.

The survey, conducted last spring, asked respondents what the penalty should be for murder and gave them three choices: death; life in prison with no chance of parole; or life imprisonment with an added requirement to work to make restitution to the victim's family. Only about a third of those surveyed — 32 percent — chose execution, while 43 percent opted for life without parole and restitution, and 18 percent favored life imprisonment. The poll's margin of error was plus or minus 4.9 percent.

"The poll in the spring really shows what we felt already," says Jerome Schroeder, executive director of the Illinois Coalition to Abolish the Death Penalty. "The support is just not there for the death penalty when you get into the specifics."

Schroeder says the Illinois poll reflects similar findings in national surveys, in which support for capital punishment declines if respondents are given alternatives such as life in prison with no possibility of parole, or if they're told of the

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*As the state's sorry track record developed over the years, the death penalty discussion gradually evolved into whether maintaining capital punishment was worth the risk of executing an innocent person.*

number of exonerations of death row inmates who were wrongfully convicted.

The poll appears to reflect an ongoing shift in the long-running public debate over capital punishment in Illinois.

When Illinois lawmakers voted to restore the death penalty in 1973, the argument then largely revolved around whether certain crimes were so horrible that society was obliged to demand the ultimate penalty of the perpetrator. Or, in concrete terms, should we put to death heinous offenders like John Wayne Gacy?

But serious flaws became apparent in death penalty administration over the succeeding three decades, leading Ryan to declare the moratorium after 13 death row inmates had been exonerated, including Anthony Porter, who was hours

away from death when the Illinois Supreme Court stayed his execution. Porter was later cleared when another man confessed to the slaying for which he was convicted.

"I have grave concerns about our state's shameful record of convicting innocent people and putting them on death row," Ryan said at the time. "I cannot support a system which, in its administration, has proven to be so fraught with error and has come so close to the ultimate nightmare, the state's taking of innocent life. ..."

"How do you prevent another Anthony Porter — another innocent man or woman from paying the ultimate penalty for a crime he or she did not commit?" the governor added. "Today, I cannot answer that question."

Since then, seven more men have been exonerated, and Ryan, in one of the last acts of his governorship, cleared Illinois' death row in January 2003 by commuting the death sentences of 164 inmates to life in prison without parole. Three others were commuted to 40-year terms, and four inmates were pardoned.

As the state's sorry track record developed over the years, the death penalty discussion gradually evolved into whether maintaining capital punishment was worth the risk of executing an innocent person. Again, in concrete terms, to be able to execute the Gacys, are we willing to put to death the Porters?

In efforts to eliminate the possibility, the state Supreme Court adopted rules requiring extensive training and experience for judges and attorneys in capital cases, and lawmakers in 2003 enacted a variety of reforms, including ones providing additional scientific resources and technical expertise for both sides in capital cases, to be paid from a newly created Capital Litigation Fund. Since its inception, more than \$100 million has been paid from the fund for services such as DNA testing, expert witnesses and background investigations of defendants.

After living under the moratorium for the past decade, Illinoisans are rethinking the issue, Schroeder believes. For one thing, the dire consequences that capital punishment advocates forecast without a death penalty have not come to pass: The number of murders in the state, for example, has declined, from 898 in 2000 to 790 in 2008, according to the most recent annual uniform crime report compiled by the Illinois State

Police. The rate — the number of murders per 100,000 population — also dipped from 7.2 in 2000 to 6.1 in 2008, a 15 percent drop.

Also, people still regularly see news reports of wrongful convictions, despite a sizable state investment — \$17 million last year — for capital litigation costs, plus added expenses for counties in which cases are tried. Abolitionists argue the money could be better spent on programs and services to help victims' families and on additional resources for law enforcement.

Moreover, capital cases seem to drag on through numerous appeals, precisely because no one involved wants any mistakes, but that prolongs the wait for justice for victims' families.

Given such persistent problems, Schroeder believes Illinois is ready to join the other 15 states that have no death penalty, including three which abolished it in the last three years: New York, New Jersey and New Mexico.

"After studying for 10 years, we have

found the answer: Repeal of the death penalty will solve all these problems," he says.

Legislation to replace the death penalty with life in prison without parole was introduced in both legislative chambers last year. The House version cleared committee but stalled. Its sponsor, state Rep. Karen Yarbrough, a Democrat from Maywood, is still hoping for a vote before the current General Assembly ends in January. If not, she plans to introduce the measure again next year.

"I'm committed to passing it," she says. "The moratorium is fine, but it's not good enough. The system is too broken to fix, and as long as you have humans involved, there are going to be mistakes."

*Charles N. Wheeler III is director of the Public Affairs Reporting program at the University of Illinois at Springfield. He also serves on the advisory board of the Downstate Illinois Innocence Project, which provides assistance to defense attorneys in wrongful conviction cases.*



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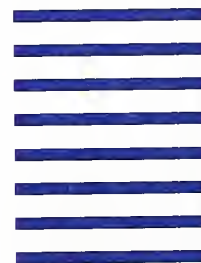
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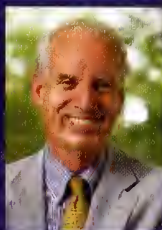
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